MAANG ASSOCIATES

MANITOBA FRAMEWORK AGREEMENT INITIATIVE REVIEW

FINAL REPORT

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Manitoba Framework Agreement Initiative Review
Final Report

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Manitoba Framework Agreement Initiative Review

EXECUTIVE SUMMARY

1. Purpose of the Review

On December 7, 1994, the Framework Agreement Initiative (FAI) on the Dismantling of the Department of Indian Affairs and Northern Development (DIAND), the Restoration of Jurisdictions to First Nations Peoples in Manitoba and Recognition of First Nations Governments in Manitoba was signed by the Assembly of Manitoba Chiefs (AMC) on behalf of the First Nations in Manitoba and the Minister of Indian Affairs and Northern Development on behalf of Canada.

The agreement states that "...progress under this agreement will be evaluated and reviewed on a mutually agreeable basis at the end of it's third, sixth and tenth years". The Aboriginal firm, Maang Associated has been engaged in a competitive process to conduct the Three-Year review. The consultants working on the review include Dr. Don McCaskill (Project Director); Dr. Ted Harvey (Technical Consultant); Beverley Jacobs and Andrea Williams (Research Associates); Tricia Longboat (Researcher); Dr. John Burrows, (Legal Consultant) and Mr. Vern Douglas (President, Maang Associates).

2. Scope and Methodology of the Review

The review took place between June and November 1998. It was a collaborative effort between the consultants and a joint review committee in terms of decision-making, providing feedback and reporting. The joint review committee was composed of representatives of AMC, DIAND and the consultants.

The review utilized a multiple lines of inquiry approach to ensure the validity of the findings, focussing on lessons learned and how to strengthen the FAI in the future. A total of 192 individuals were interviewed for the review. The methodology of the study consisted of six lines of inquiry:

1. **File/Document Review:** A detailed file/document review was conducted at AMC and DIAND region and headquarters.

2. **Key Respondent Interviews:** A total of 41 interviews were conducted in Winnipeg, Ottawa/Hull and Thompson with individuals who had been or are currently involved with the FAI.

3. **In Person and Telephone First Nation Interviews**: A total of 63 interviews were conducted, 23 with Chiefs and 40 with Community Coordinators.

4. **Focus Group:** A focus group was held in Winnipeg with Tribal Council Executive Directors and Independent First Nation Chiefs. A total of 12 people participated in the focus group.

5. **Four First Nation Case Studies:** Case studies were carried out in four communities. Researchers spent four days in each community interviewing an average of 19 people in each community.

6. **Some Strategic and Process Observations on Cost-effectiveness of the FAI:** Some strategic and process observations on cost-effectiveness of the FAI was undertaken by the technical consultant using financial records and other documents of the FAI.

3. The Nature of the Report

It was agreed at the Joint Review Committee that the final report should be brief and succinct and focus on discussing the main findings, outlining the key conclusions and making specific recommendations. The detailed reporting of the findings would be provided in six appendices.

The report makes a distinction between "primary" recommendations based directly on the findings and "secondary" recommendations which are also based on the findings but in a less direct way. "Primary" recommendations are designated by an asterisk (*) in the report.

This report was written by Dr. Don McCaskill with the exception of "Some Strategic and Process Observations on cost-effectiveness of the FAI" which was researched and written by Dr. Ted Harvey.

4. Overview of the Findings

4.1 Context of the FAI

The FAI is perhaps the most ambitious and complex self-government and dismantling initiative in Canada. In recognition of the difficulty of the challenge, the authors of the agreement built in three fundamental principles that they understood were necessary for the FAI to succeed. First, that First Nation communities must participate at every stage of the process, to ensure that they have a sense of "ownership" of the FAI. The FAI is first and foremost a community development initiative. Second, that the FAI needs to be a joint process, a joint relationship between the parties - AMC and the Government of Canada, represented primarily by DIAND. Third, the FAI is a long-term initiative that is operating in a complex political, social, cultural and economic environment.

The First Nations context includes: 150 years of colonialism which has resulted in a situation of powerlessness and dependency; a profound lack of trust between the First Nations and government; and a concern over pressing day-to-day issues such as adequate housing as opposed to self-government. This has resulted in a situation in which self-government is perceived as a serious risk by many people, as it represents a major change with unknown consequences. In addition, there is tremendous diversity among First Nations in terms of their being ready to move toward self-government. The FAI also functions in a complex political climate in which various leaders must be consulted before significant action can be taken.

4.2 Vision and Objectives of the FAI

There was a convergence among the stakeholders that the vision of self-government involves self-determining First Nations, taking control of their lives through the exercise of jurisdiction. Specific aspects of the vision included the development of government structures, creation of an infrastructure in communities, sustainable development, stable financing, a strong economic base, access to natural resources, and education and training of people for a sustainable workforce.

There was also a strong sense that any self-government should be based on traditional First Nation culture, traditions and language which could be adjusted to meet modern conditions and that the protection of treaty rights was very important.

***Recommendation # 1: That FAI establish a structure to ensure that First Nation Elders have an enhanced role in discussions and decision-making pertaining to the vision, philosophy, structures and implementation of self-government.**

Respondents stated that in the implementations of the FAI objectives, the emphasis should be on self-government initiatives as opposed to the objective of dismantling DIAND.

***Recommendation # 2: That the parties recognize that dismantling DIAND in Manitoba is a long-term objective of FAI and that the priority should be the establishment of self-government.**

The FAI was seen to be, in a fundamental way, a long-term community development process that addresses the need for "healing" and "capacity building" in First Nations Communities.

***Recommendation # 3: In recognition of the complex context that exists among First Nations' people in Manitoba, that the parties recognize that the broad objective of initiating self-government is a long-term development process that involves the tasks of healing and capacity building in First Nation communities.**

4.3 Structure and Activities of the FAI

The FAI is administered in the AMC office in Winnipeg and the Manitoba Keewatinowi Okimakanak (MKO) office in Thompson. The activities of the FAI were guided by annual Work Plans negotiated between the parties. Activities included: conducting research, preparing reports and discussion documents, developing a communications strategy, reporting to various stakeholder groups, negotiating agreements and community consultation. In Year II there was a major shift in activities toward community consultation though the hiring of Community Coordinators in the 62 First Nation communities. In Year III a major Government Options Paper (GOP) was produced. The FAI budget was: $5,089.049 in Year I, $5,866,5000 in Year II, and $9,000,000 in Year III.

4.4 Roles, Responsibilities and Relationships

There was general agreement that DIAND's role in the FAI had diminished over the three years for a variety of reasons and there was a need to clarify DIAND's roles and responsibilities.

***Recommendation # 4: That a mechanism is put in place to begin discussions by both parties to clearly define DIAND's roles and responsibilities in the FAI which will result in DIAND's effective participation in the process and renew the joint relationship between the parties (also see: Recommendation # 7).**

A number of issues were outlined which affected the ability of AMC to carry out its roles and responsibilities including: admbitious Work Plans, lengthy negotiations over the funding of the FAI, the submission of deliverables, different notions about the amount of funding required by the FAI, the FAI staff heavy workload, and the efforts required to keep Chiefs on side with the FAI.

The relationship between the parties, while improving in recent months, has come to be primarily adversarial. Respondents recognized the need to develop a true joint relationship based on trust and respect. An effective method to renew the relationship is for the parties to work together on a number of joint projects and activities.

There was also a sense that there needs to be some positive energy infused into the FAI by the parties, particularly at DIAND headquarter as well as a reaffirmation of commitment to the FAI.

***Recommendation # 5: That the parties reaffirm their commitment to the FAI and agree to work toward the establishment of a true Joint Relationship through the development of an effective working relationship.**

Many respondents suggested that there was no common vision or shared goals of FAI between the parties.

***Recommendation # 6: That, as a means to operationalize this renewal, a meeting of all senior officials responsible for the FAI be convened with a view to reframe the relationship, establish a shared vision of the FAI and determine the parameters of activities and resources of the FAI.**

A "game plan" involving a number of joint activities was suggested to build the relationship and move the FAI process forward.

It should be noted that the development of a joint game plan including a joint Workplan should entail a significant savings of expenditures for the FAI because the focus on "realistic" and "achievable" goals will mean some activities will, of necessity, be postponed to a future date. On the other hand, the implementation of other recommendations, for example, the acquisition of additional staff and an expanded community consultation process will entail additional funding."

***Recommendation # 7: As a parallel initiative and with the participation of senior managers, the appropriate officials at AMC and DIAND jointly develop a FAI Three-Year Workplan which will include: the setting of realistic goals for the FAI, a strategic plan to attain the goals, specific activities to be undertaken, achievable results to be expected, performance indicators of achievements of results, a reasonable time frame to complete the work, monitoring procedures and an appropriate budget. Another goal of the workshop should be to delineate the appropriate joint roles and responsibilities to be assumed by the parties under the renewed joint relationship model of the FAI. As part of this process DIAND Region and headquarters should be prepared to allocate additional staff resources to the FAI.**

A number of respondents suggested that some tangible activities be undertaken to "put the joint relationship into practice".

Recommendation # 8: That a Joint FAI Research Committee be established composed of representatives of AMC/FAI and DIAND (and outside resources if appropriate) with a mandate to:

- **Establish research priorities for the FAI;**
- **Carry out joint research projects; and**
- **Establish a Community-based Research Project process to initiate research on various topics of self-government in First Nation communities (including adjudicating Research Project Proposals and liaison with Community and Regional Coordinators) (See also Recommendation # 29).**

Some respondents reported that there was a need for "new ideas" regarding self-government to be infused into the FAI process and that lessons could be learned from other self-government initiatives in Canada.

Recommendation # 9: That AMC/FAI and DIAND jointly sponsor a Symposia on First Nation Self-government which will include Elders and speakers with expertise in self-government. Topics for workshops might include: ways and means of integrating traditional First Nations culture, language and traditions into models of self-government and lessons learned for other initiatives on self-government. The Symposia should be designed in such a way that a wide variety of individuals could attend including First Nation community members.

First Nation respondents suggested that the FAI needs to be put on a firm financial footing through the allocation of multi-year funding. At the same time, some DIAND respondents were reluctant to commit long-term funding unless they had a meaningful role in developing a mutually acceptable Workplan and that an appropriate joint relationship had been established.

***Recommendation # 10: That, assuming an effective joint process that is satisfactory to both parties has been put in place, a Three-Year funding base be allocated to the FAI to ensure that it is guaranteed a long-term financial stability.**

Given some of the difficulties in the relationship in the past, it appears appropriate that some mechanism be put in place to facilitate and monitor the process of renewing the relationship.

Recommendation # 11: That, as a means of determining that an effective joint process has been established and that progress is being maintained, an individual outside of the FAI be engaged to review the situation. Representative from both parties would set the terms of reference for the position and the individual would report at regular intervals to the appropriate body.

4.5 Management and Accountability

Concern was expressed by FAI respondents that the FAI did not enjoy a sufficiently high profile at DIAND headquarters and that there was a need for additional staff resources to be allocated to the FAI to take advantage of the considerable expertise in self-government that currently exists.

***Recommendation # 12: That DIAND headquarters ensure that the FAI is a high priority by establishing an "FAI Secretariat" to oversee work on the file. The committee should liaise closely with regional Office and should be composed of Senior Managers.**

Recommendation # 13: That, assuming that a satisfactory joint working relationship is established between the parties which results in a substantial increase in the level of activity of DIAND in the FAI, that DIAND second an individual from headquarters to work full-time on the FAI file (either in the FAI office or at region office). The nature of the appointment, including specific duties and responsibilities should be negotiated among DIAND headquarters and region.

While there was general agreement that the lead for the FAI should remain at DIAND region, there appeared to be some confusion regarding the roles and responsibilities of region and headquarters and an expressed need to reframe the relationship to take advantage of the strengths of both groups.

***Recommendation # 14: That the Senior Managers of DIAND meet to clarify the division of responsibilities between region and headquarters with the view to ensuring that sufficient support and expertise is available for the FAI by DIAND.**

Two issues were raised by respondents when asked to assess the accountability and management of the FAI by the AMC. First, there was a feeling that the accountability framework was complex and, at times, cumbersome. With so many groups and committees to report to, it is sometimes difficult and time consuming to get a decision made. Second, the FAI staff workload was too heavy for them to effectively carry out their responsibilities.

***Recommendation # 15: That the AMC/FAI take steps to "streamline" and "simplify" the accountability structures in the FAI.**

***Recommendation # 16: That the FAI examine the possibility of acquiring additional staff with qualifications in such areas as: policy analysis, community education and training, research and administration.**

4.6 The Negotiation Process

One of the most problematic areas of the FAI has been the negotiation process. Negotiated agreements on four sectorial "fast tracked" items, namely Education, Fire and Emergency Services, Capital, and Child and Family Services were unable to be negotiated due to major differences in positions between the parties. Similarly, little progress was made regarding comprehensive issues such as inherent rights, interpretation of Treaties, applicability of the Charter of Rights. There was a strong sense that negotiations require a mandate from First Nation communities in the form of an agreed upon negotiation position on issues such as appropriate structures of self-government. A number of other obstacles were raised by respondents including: that the relationship between the parties tended to be adversarial, neither side had done the research and preparation to develop a coherent negotiation position, both sides were often quite rigid in their positions, the lack of an authoritative mandate by DIAND negotiators, and a lack of an agreed upon negotiation framework. These factors led many respondents to feel that it was premature to come to the negotiation table.

***Recommendation # 17: That formal negotiations be resumed when the parties agree that conditions are in place that will allow for some reasonable expectation of acceptable results can be achieved. Such as, changes in adversarial relationship, a mandate from the community, flexibility in negotiation positions of both parties, a clear and strong mandate for both parties and a clear negotiation framework.**

A new approach to negotiations was suggested - an approach that would have three elements. First, a revised community consultation process that would result in a community-based negotiation position on such issues as structures of self-government. Second, the preparation of discussion papers and background documents on issues to be negotiated. Third, the Working Tables addressing issues using the GOP as starting point. This community consultation might support the negotiations through examining the following issues:

- define the framework of "good government";
- define and develop models of self-government;
- define the powers, scope and jurisdiction of government;
- develop a fiscal relations framework;
- develop accountability structure; and
- develop programs and services of the government.

***Recommendation # 18: That a community consultation process be undertaken with a view to developing and refining negotiation positions for the FAI that is rooted in First Nations' perceptions of appropriate principles, structure and functions of self-governments.**

Recommendation # 19: That, as a vehicle of the community consultation process, a "FAI Self-government Task Force" be created. The Task Force should have representation from both parties and be Chaired by an individual external to the FAI. The mandate of the Task Force would be to hold hearings in the regions of Manitoba (corresponding with Tribal Counsel territories) to hear First Nations community members' views on self-governments in the form of individual or group presentations. A pre-hearing process should be put in place to help prepare community members to make presentations to the Task Force. Discussion questions and background documents should be prepared to help community members frame their presentations. Community and Regional Coordinators should take responsibility for preparing the people to make presentations and organizing the hearings in their regions. Special efforts should be made to ensure that the views of Elders, youth and women are heard at the presentations.

***Recommendation # 20: That the GOP continue to be utilized as an important resource in community consultations as well as Working Table discussions. In order for the GOP to be effective as a community consultation tool, the FAI take steps to modify it appropriately (e.g. distill the key ideas, put in simple language etc.).**

4.7 The Community Consultation Process

There was general agreement that the community consultations were a key element of the FAI. It is critical that First Nations people are active participants in the FAI if they are to make informed decisions about self-government. There was a sense that the community consultations should be refocused toward "capacity building"as part of a large community development process as a prerequisite to self-government. Many of the recommendations build on and expand upon current FAI initiatives.

***Recommendation # 21: That the community consultation process be refocused toward the short-term goal of developing appropriate models of self-government with a view to generating a community-based negotiation position (see Recommendation #18), as well as "capacity building" as a longer-term strategy preparing First Nations people for self-government. A "Community Consultation Action Plan" should be jointly developed by the Partners to implement the task. The Plan should include specific objectives, activities, accountability structures, monitoring systems, time lines and outcomes.**

In order to implement this revised community consultation process, additional staff resources will be required.

***Recommendation # 22: That, as part of the refocusing of community consultations, the FAI acquire additional staff resources with specific responsibilities for community consultations. These staff members should possess skills in community development/adult education, including: competence in such areas as adult curriculum development; workshop design and facilitation, and organizational development. Duties and responsibilities for the position should include developing an accountability structure to more effectively support the work of Community Coordinators.**

The new approach has significant implications for the roles and responsibilities of Community Coordinators in terms of their accountability and skills required to carry out their new duties.

***Recommendation # 23: That the accountability of the Community Coordinators be clarified with a view to ensuring the maintenance of an adequate reporting mechanism involving the FAI office.**

***Recommendation # 24: That a training package be prepared to upgrade the skills of Community Coordinators to meet the requirements of the community consultation process. A series of training workshops focussing on specific skill sets should be instituted to train Community Coordinators.**

An obstacle that was identified by respondents to an effective community consultation process is the lack of recognition of the different "states of readiness" of First Nation communities to move ahead with self-government.

***Recommendation # 25: That the FAI institute an informal "community needs assessment" process with a view to determining different "states of readiness" of First Nation communities. Different community consultation strategies should then be developed to meet divergent communities' self-government needs.**

***Recommendation # 26: That, in recognition of the divergent needs of First Nation communities, a limited number of "pilot projects" be established by the FAI to encourage communities to participate in self-government initiatives.**

A mechanism is required in First Nation communities to facilitate self-government activities as part of the refocused community consultations and give them a sense of "ownership" of the FAI.

***Recommendation # 27: That First Nation communities be encouraged to establish "Self-government Community Committees" to work with Community Coordinators and FAI staff to develop and oversee self-government initiatives in their communities. These Committees should be eligible for modest funding from the FAI to carry out their activities.**

Research on various facets of self-government will be required to support the community consultations. The research should involve community members as active partners as part of the capacity building process.

Recommendation # 28: That the FAI sponsor a series of "Community-based Research Workshops" in selected First Nation communities (or Tribal Council regions) to teach community-based research approaches to provide Community Coordinators and community members the skills to conduct research in their communities.

Many First Nation community members indicated that they would like to be more involved in the FAI through participating in a number of specific activities.

Recommendation # 29: That, as a follow-up to the research workshops', a selected number of community-based (or regionally-based) research projects be undertaken by FAI pertaining to specific aspects of self-government. These projects could be overseen by a Joint FAI Research Committee (see: Recommendation # 8) and coordinated by Community (or Regional) Coordinators and self-government Community Committees (see Recommendation #27). Community members (e.g., those who have participated in the Research Workshops or university students) should be involved in the research. A "Community Research Project Steering Committee" should be established in each community to oversee the projects. Research proposals should be submitted to the Joint FAI Research Committee through a competitive process. The FAI should provide funding for the projects. If required, a consultant could be contracted to assist with establishing the process and provide assistance to Community Coordinators and community members in conducting the research.

4.8 Some Strategic and Process Observations on Cost-Effectiveness of the FAI

An analysis was conducted to consider whether it could be concluded that the objectives of the parties for the FAI were achieved in a cost-effective manner and to ascertain strategic lessons for future stages of the FAI. Several conclusions were drawn.

First, the reviewer concluded that cost-effectiveness as usually considered could not be definitively determined for FAI, because (1) the parties did not outline criteria for cost effectiveness at the start of the FAI, and (2) accounting systems did not fully link specific expenditures to specific measured outcomes. Generally, a need for better information systems was seen on both the FAI and the DIAND sides.

Second, the reviewer concluded that DIAND and the FAI were operating with very different goals in mind – that the FAI focus was more on what the reviewer would view as capacity building (nation-building factors such as popular understanding of self-government, human resources, institutions), while the DIAND concern was aimed at self-government but focussed more on specific deliverables (reports, agreements etc.). The reviewer concluded that there is a need for balance between the goals of long-term capacity-building on the one hand and identifiable products on the other.

Third, the reviewer concluded that FAI expenditures could be assessed as reasonable in light of certain factors. One factor is the large portfolio of human and other services to be effected or leveraged by self-government ($21 million expended on FAI relative to about $850 million per year for all government expenditures on First Nations in Manitoba). The reviewer noted that the social change to be leveraged by this investment in self-government, and the potential long-term savings were significant. A second factor is comparison to other self-government initiatives. A comparison of FAI with 60 other comprehensive self-government initiatives suggests that the cost of FAI (to 1997-98) is generally comparable to with other initiatives on a cost per First Nation and cost per-capita basis (of some 60 agreements, FAI was 8th in cost on a per First-Nation basis, and thus relatively costly compared to other First Nations, but 26th in per-capita costs, suggesting a relatively average cost).

Fourth, The reviewer noted that while many FAI efforts appear to be extremely valuable, such as community consultations, First Nations Government Representatives Program etc., there is currently a lack of data for a full assessment of cost-effectiveness either for Canada or First Nations. A number of recommendations are offered to aid assessment of cost-effectiveness which is greatly needed in the future.

Recommendation #30: Use of the GOP should be undertaken within a well-defined evaluation process, to assess its value and the cost-effectiveness of the investment in this tool.

This document represents a substantial investment for the FAI, and one which could be of great value to communities which are faced with a need to understand many complex issues in self-government. Can the GOP clarify goals and issues? Can it facilitate broader popular understanding of self-government? These are questions that could be answered by a carefully monitored study of its use in communities.

Recommendation #31: The FAI should consider giving greater emphasis to directly measuring the things that are important to it -- directly assessing the capacity building that is central part of the nation-building element of FAI.

Such an effort could focus on important tangibles such as the growth of institutions, growth in human resources available for self-government and growth in the broader populations' understanding and knowledge of self-government and its challenges.

***Recommendation #32: DIAND should consider placing less emphasis on agreements and deliverables per se, focusing more of its attention on capacity-related results, while still pursuing other results it may place priority on (e.g. specific agreements).**

Such an emphasis could be developed jointly by the parties through periodic surveys of institutions, human resources and the general population of First Nations.

***Recommendation #33: Build results measurement into a multi-year budgeting and performance measuring process including detailed indicators.**

Future assessments of the FAI should be placed within a multi-year planning framework with various cost-effectiveness indicators and monitoring procedures in place to allow for incremental evaluation of progress. Such an approach has already been proposed by FAI.

***Recommendation #34: There is a need for the parties to define various cost-effectiveness indicators and monitoring procedures for the subsequent years of the agreement more effectively, and to describe better how these criteria will be applied to specific activities.**

Most importantly, this requires agreement by the parties as to what the indicators of cost-effectiveness will be, and how the information will be collected to measure these outcomes.

Recommendation #35: To support ongoing assessments of cost-effectiveness, it would be desirable to develop mechanisms for providing regular and reliable information on such impacts as community understanding of self-government, First Nations' population fear or acceptance of self-government, etc. Human resource and infrastructure impacts should also be monitored in a systematic way.

In order to implement these procedures specific data collection activities and new types of reporting mechanisms will be required. Survey of the First Nation population and ongoing assessments of the institutions of self-government should be key elements.

5. Conclusion: Lessons Learned and Future Directions

Respondents consistently returned to two central themes which challenge the FAI: firstly, attempting to overcome 150 years of negative history in First Nations communities to move toward self-government, and secondly, trying to forge an effective joint relationship between the parties based on mutual trust and respect. Until these issues are satisfactorily addressed, it will be difficult for the FAI to fulfill its potential.

The Review has characterized the relationship between the two parties as "Two Dichotomies" in that an effective joint relationship has not developed and lines of communication are, at times, strained. In addition, no common vision or shared sense of direction for the FAI is currently in place. Although the situation has recently improved, there remains the challenge of developing a "true joint relationship". Figure 1 illustrates the current situation in the FAI. Both of the parties have their mandates and entities to which they are responsible. For the AMC/FAI it is the First Nations community characterized by distinctive cultural values, language and traditions, a pervasive political climate, history of colonialism, lack of trust of government and fear of self-government. DIAND's world is delineated by a government and bureaucracy also possessing a distinctive culture and political climate. The environments of both parties provide opportunities and restrictions but each must be accepted and the implications for the FAI to be understood. Neither side can operate outside of its environment.

Despite the challenges, the Review has discovered that both parties are fundamentally committed to make the FAI work. Based on the lessons learned and future directions as expressed by the respondents the report has made a number of recommendations designed to move the FAI process forward. Figure 2 depicts the situation of a renewed structure of FAI based on a true joint relationship. Stakeholders recognize that it will be through carrying out a number of joint activities that the joint relationship can be activated and the parties can operationalize their commitment to the process.

The analysis and recommendations represent a step by step approach to renewing the FAI. It is a kind of "blueprint" of related structures and activities that can be undertaken. It can be summarized by the following:

- reestablish the joint relationship to ensure that both parties have a sense of "ownership" and commitment to the FAI through meaningful involvement at all levels;
- develop a common vision and agreed upon set of goals for the FAI that are attainable;
- clarify the roles and responsibilities of both parties in the FAI;
- establish an agreed upon realistic and coherent "game plan" to implement the vision and goals including a "refocused" community consultation process as a priority;
- engage in a number of joint activities to develop the relationship and move the process forward;
- put the appropriate resources, human and financial, in place to allow the work to occur; and
- establish an agreed upon monitoring and accountability framework to measure that the goals are being met.

In this way it is hoped that the next three years of the FAI will result in significant movement toward self-government for the First Nations of Manitoba.

Figure 1: FAI CURRENT SITUATION - "Two Dichotomies"

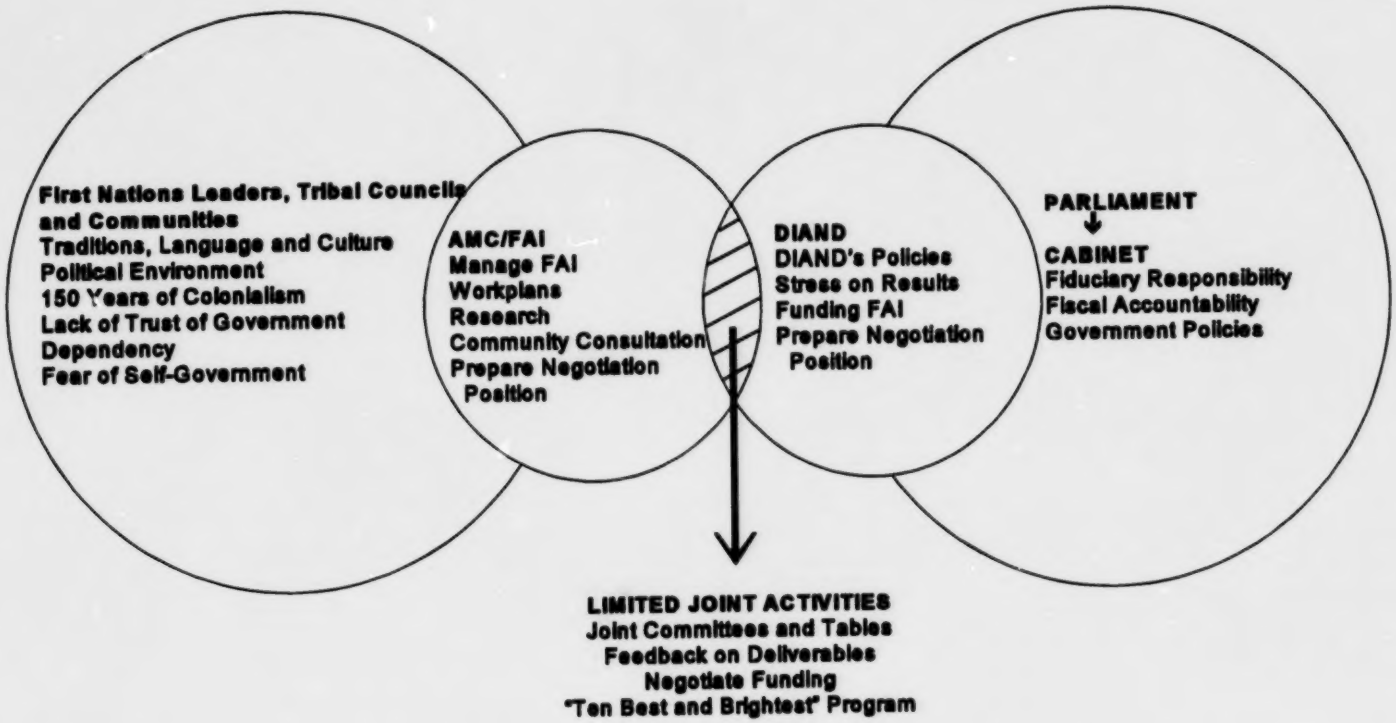
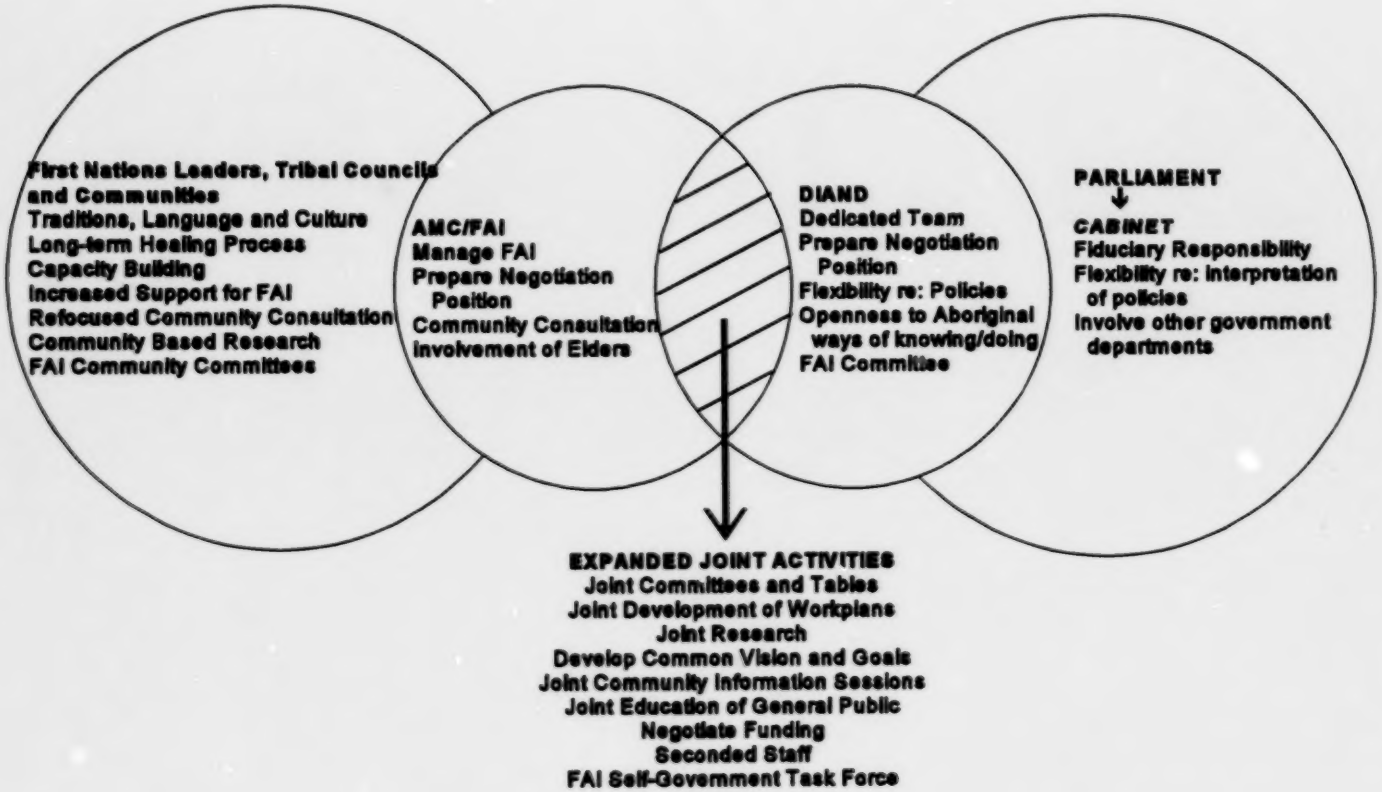


Figure 2: RENEWED FAI - "A Joint Relationship"



1. INTRODUCTION

On December 7, 1994, the Framework Agreement Initiative (FAI) on the Dismantling of the Department of Indian Affairs and Northern Development (DIAND), the Restoration of Jurisdictions to First Nations Peoples in Manitoba and Recognition of First Nations Governments in Manitoba was signed by the Assembly of Manitoba Chiefs (AMC) on behalf of the First Nations in Manitoba and the Minister of Indian Affairs and Northern Development on behalf of the Federal Crown.

The FAI establishes a joint process between the Minister and the AMC to meet the following objectives:

- dismantle the existing structures of the DIAND as they affect First Nations in Manitoba;
- develop and recognize First Nations governments in Manitoba legally empowered to exercise the authorities to meet the needs of the peoples of the First Nations;
- restore to First Nations the jurisdiction (including those of other federal departments that are consistent with the right of self-government); and
- consistent with the inherent right of self-government, all of which is hereinafter referred to as the "Objectives".

Notwithstanding anything else contained in this Framework Agreement:

(a) The Objectives of the Project will be realized on the basis of the core Principles and Mutual Commitments contained in paragraphs 5 and 6 hereof, the Memorandum of Understanding confirmed and ratified in paragraph 7.1, and such other matters as may be mutually agreed to in the course of the Project; and

(b) The Objectives of the Project will be implemented only on the basis of mutual decisions and agreements.

These objectives are to be realized on the basis of the core Principals and Mutual Commitments contained in the Framework Agreement. The Agreement was established until the achievements of the objectives are reached on a mutually agreeable basis or ten years, whichever came earlier. The organizational structure of the Initiative is overseen by a Political Overview Committee which consists of the AMC Grand Chief and the Minister. A Joint Steering Committee and various Working Groups have been established to facilitate the process. To support this work, the AMC has created a Framework Agreement Office under the direction of a Project Director and the DIAND Manitoba Regional Office has established the Manitoba Framework Agreement Initiatives Office to support the work of the Initiative. In addition, resources from DIAND headquarters have been allocated to support the FAI.

The Agreement states that "...Progress under this Agreement will be evaluated and reviewed on a mutually agreeable basis at the end of it's third, sixth and tenth years". A Joint Review Committee consisting of representatives of AMC and DIAND was established to develop the terms of reference and oversee the review.

The Aboriginal firm, Maang Associates has been engaged in a competitive process to conduct the Three-Year review. The key consultants working on the review include: Dr. Don McCaskill (Project Director); Dr. Ted Harvey (Technical Consultant); Dr. John Borrows (Legal Consultant); Beverley Jacobs and Andrea Williams (Research Associates); Tricia Longboat (Researcher); Dr. John Burrows (Legal Consultant) and Mr. Vern Douglas (President, Maang Associates).

2. NATURE OF THE REVIEW

2.1 Objectives of the Review

The Terms of Reference of the Joint Review (see Appendix 1) state that the review will address the following issues:

- What are the activities, processes, roles and responsibilities and the intended results of the FAI? Are these clearly linked to the FAI's objectives?
- What results have been achieved to date.
- To what extent are these outputs being used in the process/negotiations?
- What obstacles, if any, have been experienced by both parties?
- Were the objectives of each party achieved in a cost-effective manner (e.g., annual and long-term objectives)? If not, why?
- What are the accountability frameworks used by both parties and are they effective?
- What is the accountability framework that is used between the parties, and is it effective?
- What are the strengths and weaknesses, and lessons learned by both parties (e.g., community consultations, communications, project management, negotiations process on sectoral and comprehensive issues, relationship between the parties)?
- Were there any unforeseeable developments that impact on the Agreement?
- What Improvements and future courses of action could be undertaken?

2.2 Scope and Methodology of the Review

The Joint Review incorporated a number of important principles into its operation including:

- the review was seen as a collaborative effort between the consultants and the Joint Review Committee in terms of decision-making, providing feedback and reporting;
- the review would attempt to include the input of as many stakeholders in the FAI as possible;
- a multiple line of inquiry approach would be utilized to ensure the validity of findings;
- strict confidentiality of all individual opinions and reports would be maintained at all times;
- the review would focus on articulating best practices and lessons learned to this point in the FAI process and how to strengthen the process in the future; and
- the review is an independent review.

The Joint Review proceeded in three phases.

2.2.1 Phase I - Planning

June 22 - Contract Signed

June 24 - Joint Review Committee Meeting: The Joint Review Committee met with the consultants in Winnipeg and finalized the Terms of Reference. The consultants carried out preliminary interviews with Key Respondents and conducted a preliminary file and document review in order to gain an understanding of the FAI to develop the research instruments and prepare the Planning Report.

It is important to note that throughout the review the Joint Review Committee worked in complete cooperation with the consultants and greatly facilitated the review process. Decisions were made by consensus and there was thorough consultation on all matters. The Joint Review Committee was chaired by the Manager of Research and Development of FAI and the Senior Evaluation Manager, Audit and Evaluation Branch, DIAND.

Development of Research Instruments: The consultants utilized the feedback from the meeting, interviews and documents to design a number of research instruments for use in the review.

Planning Report: A detailed Planning Report was prepared outlining the approach, principles and scope of the review as well as the draft review instruments.

July 20 - Joint Review Committee meeting: The Joint Review Committee met in Winnipeg to discuss and approve the Planning Report in order that fieldwork could begin.

2.2 Phase II - Conduct:

File/Document Review: A detailed file/document review was conducted by the Maang Project Director at AMC and DIAND Region and headquarters. A wide variety of materials were examined including: work plans, deliverables, reports, correspondence, research reports, community workshop reports, community profiles, minutes of meetings and assemblies, position papers, Elders survey, and media documents.

Key Respondent Interviews: A critical component of the review was interviews with Key Respondents, that is, individuals who had been or are currently involved with the FAI. Initially AMC and DIAND had provided a list of 10-15 names each of Key Respondents that should be interviewed. Part way through the process it became apparent that a number of additional individuals who were knowledgeable about the FAI should be interviewed. Accordingly the original list of 28 individuals was expanded to 48.

All interviews were conducted by the Maang Project Director. For a variety of reasons a few individuals could not be interviewed (declined to be interviewed, schedule conflicts, holidays etc.). Interviews took place in Winnipeg, Ottawa/Hull, Thompson and Toronto. **In total 41 interviews with Key Respondents took place.** Of these, 38 were conducted in person and three by telephone.

Two Interview Guides were developed for the Key Respondents: a 33-question guide was used for Key Respondents, and a 6-question guide was used for senior officials from both parties. Interviews averaged one and a half hours. Interview Guides contained both quantitative and qualitative questions with a number of open-ended probes questions asked to elaborate on points made by respondents.

Questions were asked on the following topics, to acquire the information required by the Objectives of the Review:

- Overview - Vision, History & Objectives;
- Roles and Responsibilities of parties;
- Short Term Results;
- Accountability & Management of the FAI;
- Joint Accountability;
- Relationship between AMC & DIAND;
- The Negotiation Process;
- The Community Consultation Process;
- Funding;
- Lessons Learned from the FAI; and
- Future of the FAI.

In addition, two follow-up interviews were held with senior officials to discuss the preliminary findings, fill in gaps in information and address future directions of the FAI.

Refer to Appendix 2 for the Interview Guides and a detailed analysis of the findings from the Key Respondent Interviews.

In Person and Telephone First Nation Interviews: A second major component of the review was interviews with Chiefs and Community Coordinators. The goal was that all 62 Chiefs and 62 Community Coordinators would be interviewed. However, due to a variety of circumstances (e.g., scheduling conflicts, declining to be interviewed, holidays, missed appointments etc.) a number of individuals, particularly Chiefs could not be interviewed. This occurred despite an average of eight telephone call-backs to attempt to arrange an interview and two letters requesting an interview. In person interviews were conducted in 14 First Nations communities as part of the field work. **In total, 63 interviews were conducted, 23 with Chiefs and 40 with Community Coordinators.** This represents a sample of 56% of the total population (n=112) of eligible Chiefs and Community Coordinators (i.e., 41% of Chiefs [n=56]; and 71% of Community Coordinators [n=56]).

Interviews were conducted by Research Associates, resulting in 19 in-person in First Nations communities and 44 by telephone. A 23-question Interview Guide based on the Master Key Respondent Interview Guide was used for the interviews.

Refer to Appendix 3 for a detailed analysis of the findings from the Chiefs and Community Coordinators interviews and the Interview Guide.

Focus Group: In keeping with the multiple lines of inquiry approach to the review a Focus Group was held to gain the ideas of two important stakeholders in the FAI - Tribal Councils and Independent First Nations. A Focus Group was held in Winnipeg on August 10, 1998 which included nine Executive Directors of Tribal Councils and their staff, a representative from MKO and Chiefs from two Independent First Nations. The Focus Group was facilitated by the Maang Project Director and a Research Associate.

The Focus Group discussed the following four questions:

- What are the important lessons that we have learned about the FAI process to date?
- What are the strengths and weaknesses of the FAI?
- What is your vision of the future of Manitoba First Nations and how does the FAI fit into that vision?
- What improvements and future course of action should be undertaken in the FAI process to make it as effective as possible?

Refer to Appendix 4 for the Focus Group Report.

First Nation Case Studies: In order to gain an understanding of how First Nation communities were viewing the FAI, four Community Case Studies were undertaken as part of the Review. The Case Studies were conducted by the Research Associates assisted in one by the Maang Project Director. Researchers spent four days in each community carrying out interviews (an average of 19 interviews per community). In addition they examined files and documents and conducted meetings with Women and Youth groups

Working with the Joint Review Committee, a number of criteria were developed to choose the Case Study communities. The consultants chose the four communities (and four alternative communities). The criteria included:

- Geographic location;
- Population;
- Language/Tribal affiliation;
- Proximity to urban centres versus remote;
- Treaty affiliation; and
- Involvement in/awareness of the FAI process.

A Case Study Report (refer to Appendix 5 for the Case Study Reports) was prepared by the researchers for each community and sent back to the communities for feedback. A Release Form was submitted in order for the community representative (Chief or Community Coordinator) to indicate that the Case Study Report accurately reflected the views of community members.

Strategic and Process Observations on Cost-effectiveness of the FAI: Another component of the Review is some Strategic and Process Observations on Cost-effectiveness of the FAI prepared by the Review Team's Technical Consultant. It involved interviews with knowledgeable officials, the development of a Template and a review of financial records and budgets.

Refer to Appendix 6 for Some Strategic and Process Observations on Cost-effectiveness of the FAI.

2.2.3 Phase III - Reporting:

September 25 - Joint Review Committee meeting: The Joint Review Committee met in Winnipeg and received a Progress Report and approved a reporting structure and timetable.

October 21 - Presentation of Preliminary Findings to the Joint Review Committee: The Maang Project Director and Technical Consultant presented the preliminary findings and conclusions of the review to a meeting of the Joint Review Committee in Winnipeg. A number of individuals were invited to hear the presentation including the FAI Chiefs Committee, officials from DIAND Region and headquarters and FAI staff.

Draft Final Report: It was agreed that the Draft Final Report would be completed by November 23, 1998 and that a Joint Review Committee meeting would be held to give feedback to the consultants before the Final Report would be completed.

Appendices: In addition to the Final Report a number of Appendices would be prepared. They would contain the detailed analysis of the findings of the various components of the Review as follows:

Appendix 1	Joint Review Terms of Reference
Appendix 2	Key Respondent Interview Findings
Appendix 3	First Nations Interview Findings
Appendix 4	Focus Group Report
Appendix 5	First Nations Case Study Reports
Appendix 6	Some Strategic and Process Observations on Cost-effectiveness of the FAI

3. THE NATURE OF THE REPORT

It was agreed at the Joint Review Committee that the Final Report should be brief and succinct. It focuses on discussing the main findings, outlining the key conclusions and making specific recommendations. The recommendations, while inevitably reflecting some degree of professional judgement, are clearly linked to the findings of the study. It was felt that such a report would have the maximum impact. Detailed presentation and analysis of the findings components of the study would be reported in the Appendices. Therefore, the report will not enter into lengthy deliberations on the findings but rather present the key highlights of what was reported by the various stakeholders drawing out the important lessons to be learned and translate them into recommendations for future action.

At the same time it is important to report the findings in a way that represents the diverse views of all the stakeholders to ensure that all viewpoints are articulated. The Review was substantial. In total, 192 individuals were interviewed in the study. Further, the FAI is a complex process with the various stakeholders representing many perspectives. Therefore, the report will attempt to present a balance of thorough discussion of the issues in a succinct manner.

The report will be organized according to the important components of the FAI. Care will be taken to address all the objectives outlined in the Review's Terms of Reference. Recommendations will be provided throughout each section.

The recommendations contained in any report reviewing an initiative such as the FAI are based on a combination of findings from the lines of inquiry and the professional judgement of the research team. To a large degree, all the recommendations in this report are related to the findings from the various data sources. However, it can be said that some recommendations emerge more directly from the data than others (e.g. resulting from ideas mentioned by a significant number of respondents). Thus, the report makes a distinction between "primary" recommendations based directly on the findings and "secondary" recommendations which are also based on the findings but in a less direct way. "Primary" recommendations are designated by an asterisk (*) in the report.

This report was written by Dr. Don McCaskill with the exception of "Some Strategic and Process Observations on Cost-effectiveness of the FAI" which was researched and written by Dr. Ted Harvey.

4. CONTEXT OF THE FAI

The FAI is perhaps the most ambitious and complex self-government and dismantling initiative in Canada. The challenge of researching, developing and implementing self-government structures in 61 First Nations is immense. The tremendous diversity among First Nation communities in Manitoba in terms of culture, geography, size, and states of political, economic and social development requires that the FAI take an approach which, on the one hand recognizes this complexity while on the other moves the process toward the goal of self-government in a deliberate manner.

The authors of the Agreement recognized the difficulty of this challenge. The Agreement discusses a number of fundamental elements that need to be in place for the FAI to succeed. Three elements are particularly important in this regard as evidenced by the following quotations from the Agreement:

Community Consultation: "It is recognized that the first and foremost requirement of this Project and its outcomes is for the people of the First Nations to be fully informed and to give informed consent, to the Project and its outcomes at every stage of its development" (FAI, p4)

A Joint Relationship between the Parties: "A joint process between the First Nations of Manitoba and the Government of Canada will be implemented and guided by the Minister of the DIAND and the Grand Chief of the Assembly of Manitoba Chief . . . The technical and legal work will be conducted by a series of Working Groups, composed of representatives from AMC, DIAND, and other federal departments if Affected." (DAI Workplan, p2)

"... the parties agree that amendments to, extensions of or changes to the Workplan will be made on a mutually agreeable basis." (FAI, p8)

Duration: "... this Framework Agreement . . . will be in force until the achievement of the Objectives on a mutually agreeable basis or ten years, whichever comes earlier, or such longer period as may subsequently be agreed upon by the parties." (FAI, P9)

The various stakeholders in the FAI process interviewed during the review also stressed the complexity of the task of implementing First Nations self-government. Key Respondents, Chiefs and Community Coordinators, Executive Directors of Tribal Councils and First Nations community members reported that several characteristics of the situation in Manitoba need to be understood because they impact the FAI process.

150 Years of Colonialism: Numerous respondents pointed out that the history of the relationship between First Nations people in Manitoba and the Government of Canada had been largely negative. The effects of residential schools, poverty, powerlessness and past assimilationist policies have, in many cases, led to a situation of dependency and suspicion of government which must be overcome if people are to be expected to embrace self-government in their communities.

Establishing Trust between First Nations and Government: As a result of the colonial past FAI must address itself to overcoming the historical lack of trust between First Nations people and the Government of Canada if there is to be a true partnership as envisioned in the Agreement. Both sides will need to demonstrate a willingness to work together and compromise for the FAI to succeed.

Self-government is a Major Risk for First Nations: Many respondents pointed out that, for some First Nation individuals, self-government is perceived as a serious risk. There exists a fear of fundamental change in the current situation in terms of fear of loss of treaty rights, loss of traditional culture and forfeiture of benefits as a result of the dismantling of DIAND. There also exists a concern over what a new system of self-government would entail in terms of protecting the rights of community members, resource sharing, accountability of leaders, possible lack of human resources to administer the new institutions, loss of some sources of revenue, loss of economic development opportunities, natural resource management and program development.

Concern over Day-to-Day Issues: Several stakeholders reported that many First Nation leaders felt that FAI was not a priority for the people in their communities. Rather, their people were concerned about day-to-day issues such as obtaining adequate housing and health services. Some respondents suggested a perception that funding for the FAI was taking away financial support from other programs. Respondents suggested that short and long-term processes could go on concurrently.

Strong Support for Treaties: First Nation Respondents expressed strong support for the Treaties signed by First Nations and the Crown. Many suggested that Treaty Rights should be fundamental to any discussion of self-government.

"States of Readiness" of First Nations: Another aspect of the context within which the FAI must operate is the fact that different First Nations are at different "states of readiness" with regard to their ability to take on responsibilities relating to self-government. Individuals pointed out that some First Nation communities are ready politically, socially and economically to begin to address questions of assuming jurisdiction and establishing self-government structures while others are in a situation where such discussions would not be seen as suited to their needs or current resources.

Complex Political Environment: The FAI operates in a complex political climate in which diverse political leaders must be consulted and a consensus reached before significant action can be taken. Often significant divergence of opinion and support exists among the various players which has important implications for the work of FAI. The challenge faced by FAI is that of keeping abreast of the government activities and policies and the impacts of each on the FAI process (researching and advising the leadership of these government initiatives) while at the same time trying to keep pace with the work plan schedules. The informing of the leadership and membership on these two fronts, as well as implementing the work plan is very time-consuming.

High Expectations of FAI: Many respondents stated that from the start there were very high expectations of what the FAI could do in a short time. It was suggested that, given the complex circumstances in which FAI was operating in, achieving those short-term results was unrealistic and tended to put undue pressure on FAI.

The Importance of Legal Issues: A number of First Nation Respondents stressed the importance of legal issues in the discussions regarding self-government. The Principles Section of the FAI Agreement (Section 5) set out the legal issues which guide the process to achieve the Objectives.

It is important to keep this context in mind when reviewing the FAI.

5. VISION OF SELF-GOVERNMENT

Keeping the context described above in mind, participants in the review presented their vision of self-government for First Nation peoples in Manitoba. While there were some differences in specifics, overall there was a considerable convergence of opinion among the stakeholder groups in terms of their vision. Almost all the visions articulated involved the result of self-determining First Nations, taking control of their lives and being able to make choices over their lives. The visions of self-government went beyond administering programs to include assuming jurisdiction (meaning the ability to make laws) as a critical element of self-government. Specific aspects of the vision of self-government include: the development of government structures, creation of an infrastructure in the community, sustainable development, stable financing, a strong economic base, access to adequate natural resources and education and training of people for a sustainable workforce. There is also strong support for the protection of treaty rights under any self-government initiative.

In addition, many respondents stressed that any self-government initiative should be based on traditional First Nations culture, teachings and language which could be adjusted to meet modern conditions. For this aspect of the vision to occur there was a consensus that First Nation Elders must be involved in any self-government initiatives. There was some concern that if Elders were not an integral part of the process that the traditional culture would be overridden by pressures to develop government structures based exclusively on Western models.

***Recommendation # 1: That FAI establish a structure to ensure that First Nation Elders have an enhanced role in discussions and decision-making pertaining to the vision, philosophy, structures and implementation of self-government.**

6. OBJECTIVES OF THE FAI

There was general agreement among the respondents that the key objectives of the FAI are to develop and recognize First Nations governments and to restore jurisdiction (Objectives 2 and 3 of the Agreement). However there was concern expressed regarding the objective that calls for the dismantling of DIAND (Objective 1). Participants stated that there was some apprehension among DIAND Regional staff over the potential loss of employment if DIAND was dismantled. In addition, many respondents suggested that there was too much emphasis being placed on the dismantling objective, particularly among some officials at DIAND headquarters. This was perceived by both DIAND and First Nations as leading to some confusion and potentially a detriment to viewing FAI as primarily a self-government initiative. Recognition of this concern led to a proposal to change the name of a major committee from Joint Committee on Dismantling to Joint Committee on the FAI.

Many indicated DIAND would naturally change its role and function as First Nation self-government became a reality. Further, there was a recognition that even after self-government there would still be a need for some federal government structure for First Nations governments to relate to.

***Recommendation # 2: That the parties recognize that dismantling DIAND in Manitoba is a long-term objective of FAI and that the priority should be the establishment of self-government.**

In addition to the three stated objectives of FAI, a number of First Nation respondents declared that, in their opinion, there were further objectives that should be seen as fundamental to the FAI. Indeed, Key Respondents from AMC/FAI tended to perceive the objectives of the FAI in broader terms than Key Respondents from DIAND. To a large degree the expanded view of FAI followed directly from the context described earlier. FAI was regarded as a long-term community development process evolving the goal of empowering First Nations' people. It was seen as a "healing" process which was attempting to facilitate a change in attitude from dependency to self-sufficiency. In their view, FAI encompasses an educational process which will overcome attitudes of fear and mistrust and, over time, lead to the development of self-government structures. As such FAI entails a "capacity building" process that needs to be recognized as an important objective. Many respondents also emphasized that a key objective of FAI should be the recognition of treaty and Aboriginal rights as a basis of self-government.

***Recommendation # 3: In recognition of the complex context that exists among First Nations' people in Manitoba, that the parties recognize that the broad objective of initiating self-government is a long-term development process that involves the tasks of healing and capacity building in First Nation communities.**

7. STRUCTURE AND ACTIVITIES OF THE FAI

Management of the FAI is undertaken by an FAI Office situated in at the AMC in Winnipeg. In addition, a Northern FAI office under MKO administers FAI activities in the North. The Northern Office has three staff; a Coordinator, Lawyer and Secretary. A major initiative funded by the FAI Northern Office is the Child and Family Services Jurisdiction Project (3 staff).

There is currently of 14 full-time staff in the Winnipeg office (a Director, a Senior Legal Council, 2 Legal Counsellors, 3 Coordinators in the areas of Consultation, Communications, and Task Groups, a Research and Development Manager, 2 Researchers, a Director of Finance, Executive Assistant and Administrative staff). There is also a part-time Chief Negotiator. As stated earlier, the workload of the FAI staff is considerable. In addition to administrative responsibilities, staff conduct research, prepare discussion papers, engage in preparing for negotiations, communicate with Community Coordinators, participate in community consultations, design and deliver education events, participate on a multitude of committees and a variety of other duties.

The FAI has carried out a number of activities during its three years in operation.

Year I - 1995 - 1996:

In the beginning, emphasis was placed on establishing the administrative structures in the FAI office, building awareness of the FAI in First Nation communities, developing an Annual Workplan and conducting research on selected topics.

The Year I Workplan for 1995/96 identified four program areas that would be expedited or "fast-tracked" to transfer authority to First Nations. These expedited program areas were: Education, Fire and Emergency Services, Capital, and Child and Family Services. In addition, the Manitoba First Nation Representatives Program or "Ten Best and Brightest" was instituted wherein ten First Nations individuals were given an opportunity to work within the federal government to gain insight into government practices, policies and procedures.

Year II - 1996 - 1997:

A significant shift in direction occurred in Year II of the FAI. Concern over the degree of involvement of First Nations Chiefs and community members led refocusing the FAI away from research and preparation of documents toward community consultations. As some respondents describe it "There was a shift from a "top down" to a "bottom up" approach. Respondents reported that many Chiefs were concerned that communities were not informed or involved enough in the activities of the FAI. This resulted in a major change of priorities. Some FAI staff were laid off and almost half of the FAI budget was shifted to a wide range of community consultation activities, the most significant of which was the hiring of an FAI Community Coordinator in each First Nation community in Manitoba. The Community Coordinators were hired by the Chiefs under an Agreement with the FAI. The reduced numbers hampered the ability of FAI staff to carry out the important research work that was required to sustain the negotiation process and other key activities. Some staff turnover, including the position of Project Director, was also a problem.

The second year Workplan contained a number of activities to be undertaken by the Community Coordinators including: community profiles; Elders interviews; reports on traditional government structures; reports on principles and goals of self-government and facilitating community workshops to inform community people about the FAI (see Section 11, Community Consultations). In addition, a communications strategy about the FAI was developed including: a video, television interviews, newsletters, print advertisement and a poster. A Northern FAI Office was established in Thompson under the (MKO). Negotiations on the four expedited items (with a focus on education) continued but broke down in March, 1997 due to the departure of AMC's Senior Negotiator and substantial differences of positions between the parties.

Additionally, a significant amount of research activity occurred, particularly legal research on government structures. Significant reports were produced by the FAI staff including: *A Three-Year Plan for Self-government Structures* and *Taking Back Responsibility.*

A number of additional activities were planned for Year II which did not occur in including: the role of urban First Nations and activities in the areas of health, economic development, justice and the environment.

Year III - 1997- 1998:

The emphasis in Year III has been continuing community consultations and production of a major *(GOP)*. In addition to work continuing on facilitating community liaison a major focus of the Community Coordinators' work was the development of community constitutions and reports on structures of self-government. Negotiations over the expedited items remained stalled. A new Senior Negotiator was hired in the spring of 1998 (see Negotiations Section). The Tribal Councils were formally brought into the FAI through the hiring of Regional Coordinators. Consultants were retained to develop a *Strategic Management Plan*. In addition, a *Strategic Multi-Year Work Plan* was prepared.

Another important development was the reestablishment of the two major Joint Committees that oversee the FAI, namely the Joint Committee on Dismantling and the Joint Project Management Committee (JPMC). Also, three Joint Working Tables were created (Fiscal Relations, Governance and Jurisdiction). Respondents reported that these initiatives have resulted in an improvement in the relationship between the parties.

A number of deliverables for Year III were submitted to DIAND by the FAI in August 1998. These deliverables included: *Summary Report of the GOP; Community-Based Consultation Report; Government Structures Report; Curriculum Development Project Report; Development Management Training Program for First Nations Government Representatives; Education Research Identification Report, as well as reports on the* expedited items.

Overall costs for the FAI for AMC/FAI and for DIAND Region are outlined in Table 1 (sources: FAI Budgets, and DIAND email, October 19, 1998). The rates of budget increases in years 2-4 of the project represent an important issue which will be discussed in Section 12, Cost Effective Analysis.

Table 1
FAI and DIAND EXPENDITURES ON FAI - 1993-1998
(DIAND Expenditures for Manitoba Region only and Based on Estimates)

	DIAND Total	
Fiscal Year	**Salary and other**	**FAI Budget**
1993-1994	*	$ 232,000
1994-1995	*	$ 1,400,794
1995-1996	$ 505,099	$ 5,089,049
1996-1997	$ 395,213	$ 5,866,500
1997-1998	$ 324,749	$ 9,000,000
Total	$ 1,225,061	$21,588,343

*DIAND estimates not requested for 1993-1995

8. ROLES, RESPONSIBILITIES AND RELATIONSHIPS

8.1 Roles and Responsibilities of DIAND in the FAI

As stated previously, a fundamental aspect of the FAI is the joint relationship between the two parties - the Government of Canada (as represented primarily through DIAND) and AMC. The authors of the Agreement envisioned that at a variety of levels, from the highest political levels to the technical and legal tasks done by Working Groups, that the FAI would be a joint process. Under the division of responsibilities for overseeing the FAI certain roles were undertaken by each party.

Respondents were asked to describe the various roles and responsibilities of DIAND in the FAI. The following list represents all the responses to that question;

- acts for the Government of Canada;
- a Joint Relationship with AMC in FAI;
- funds the FAI;
- liaison with other Government Departments;
- policy support;
- prepares materials;
- assists in research;
- participates in the "Ten Best and Brightest" program;
- participates in Committees, Working Groups and Tables;
- party to negotiations; and
- participates in communication with the public about FAI.

In fact, the degree to which DIAND has exercised these roles and responsibilities has varied considerably over the course of the FAI. Initially, joint activities between DIAND and AMC/FAI included: working together on an Education Working Group, giving joint presentations, negotiating "Fast Tracked" items, participating in the "Ten Best and Brightest" Program and sitting as members of Committees and Working Groups. In addition, DIAND acted as liaison with other government departments, prepared policy positions, briefed the Province of Manitoba on the FAI, provided feedback on deliverables and negotiated funding of the FAI.

DIAND's roles and responsibilities are guided by a series of policy positions and other documents. For example, the FAI is seen as consistent with the four objectives outlined in the document *Gathering Strength: Canada's Aboriginal Action Plan:*

- renewing the partnership;
- strengthening Aboriginal governance;
- developing new fiscal relationships; and
- supporting strong communities, peoples and economies.

Respondents reported that in recent times, DIAND's roles and responsibilities have decreased significantly. At the present time DIAND's major responsibilities include: participating on Working Tables, responding to deliverables from AMC/FAI and funding FAI. Other responsibilities include developing policy positions, briefings (oral and written) from the Minister all the way down, strategy materials and participating on JCOD.

Key Respondents were asked to assess the degree to which DIAND has carried out their roles and responsibilities. The results are clearly mixed. Of the total, 28% rated DIAND as "good," 21% as "fair" and 41% as "poor". DIAND Respondents were more positive in their assessment (47% reporting "good") than AMC/FAI Respondents (71% "poor").

DIAND's Roles and Responsibilities: A common concern expressed by First Nations' respondents was that DIAND did not appear to be committed to the FAI. Some suggested that in the beginning of the process DIAND staff were very involved in the FAI, for example in education negotiations. More recently, however, DIAND has been perceived to be less supportive, not allocating sufficient staff resources and restricting their role to reacting to deliverables and negotiating FAI funding.

Interviews with DIAND personnel confirmed that their role has diminished and that, at headquarters the FAI profile tends to be low. Evidence of the reduced role of DIAND Manitoba Region is found in the expenditures levels devoted to the work of the FAI. The operating funding allocated to the FAI has decreased significantly (from $252,146 in 1995 -1996, to $146,475 in 1996 - 1997, to $81,280 in 1997 - 1998). Some indicated that AMC/FAI does not encourage their participation in the FAI and seem to regard DIAND officials as adversaries. Thus, many DIAND respondents reported to be "cut off" from the FAI and are unaware of what activities are occurring. In addition, their role becomes restricted to being reactive instead of pro-active. Some suggested that their role now consists primarily of sitting on Working Tables, responding to deliverables and negotiating funding for the FAI.

DIAND officials suggested that this situation has contributed to several dynamics which hampered progress being made in the FAI. By not being active participants in the FAI there is a potential to lose a sense of "ownership" of the FAI. The lack of knowledge of what's happening in the FAI can lead to a lack of communication and misunderstandings. It also becomes difficult to develop a "coherent game plan" to go forward within the FAI. Further, by focussing mainly on reacting to deliverables and negotiating funding DIAND's role is perceived as largely negative. Respondents implied that there is a danger that these problems will reinforce one another leading to a situation of loss of faith that any progress is being made in the FAI and that a great deal of money is being spent with few results.

It should be emphasized, however, that DIAND Key Respondents also realized that the FAI is a complex and long-term process and requires support. They recognized that the context of the First Nations situation in Manitoba described earlier contributes to the negative attitudes toward DIAND. There was also a clear acknowledgment that healing in First nations community needs to occur as part of the process of moving toward self-government.

It is important to note that DIAND Key Respondents, while suggesting that some important issues need to be addressed, also expressed their commitment and support for the FAI and their willingness to work toward making it function efficiently and effectively.

Because of the limited roles that DIAND now plays in the FAI, some First Nations respondents were critical of DIAND's perceived overemphasis on deliverables and their hesitancy in approving adequate funding for the FAI. On the other hand, some First Nations individuals interviewed recognized the situation DIAND faces in the FAI and emphasized that it was now appropriate to reexamine the roles and responsibilities of DIAND in the FAI with a view of developing a new and more positive relationship. As one First Nation Key Respondent declared " . . . It is too easy to criticize Indian Affairs. It is time to move on". Another AMC Key respondent said "...We need to get rid of the "us" and "them" mentality" and roll up our sleeves and work together."

In order for the FAI to move forward in an effective manner, it would be useful to reexamine DIAND's roles and responsibilities with a view to restoring it as a means of renewing the joint relationship between the parties.

***Recommendation # 4: That a mechanism is put in place to begin discussions by both parties to clearly define DIAND's roles and responsibilities in the FAI which will result in DIAND's effective participation in the process and renew the joint relationship between the parties (also see: Recommendation # 7).**

8.2 Roles and Responsibilities of AMC in the FAI

Key Respondents listed the following roles and responsibilities of AMC for the FAI:

- facilitate the FAI process;
- manage the FAI;
- Chiefs, through AMC, guide the FAI;
- partners with DIAND in FAI;
- develops policy;
- prepares materials;
- carries out research;
- participates in "Ten Best and Brightest" program;
- participates in Committees, Working Groups and Tables;
- party to negotiations;
- participates in communication with public about FAI; and
- informs First Nation Communities about FAI - Community Consultations.

Key Respondents were asked to assess the degree to which AMC has carried out their roles and responsibilities. The findings suggest a mixed picture with significant variation between the parties. Forty-eight per cent of AMC Respondents reported that AMC was carrying out their roles and responsibilities either "excellent" (24%) or "good" (24%), compared to 85% of DIAND Respondents answering either "fair" (50%) or "poor" (35%). When the findings from interviews with Chiefs and Community Coordinators are examined the results are also mixed. The Community Coordinators tended to evaluate the degree to which AMC is carrying out its responsibilities, 68% responded either "excellent" or "good" whereas 78% of Chiefs rated AMC as either "fair" or "poor."

Over the three years since the Agreement was signed, AMC/FAI's roles and responsibilities have changed significantly. Interviews with Key Respondents, Chiefs and Community Coordinators, the Focus Group and the File Review reported that a number of important factors have influenced AMC's ability to effectively carry out its roles and responsibilities.

The Development of Workplans: The Annual Workplans developed by the FAI have tended to be quite ambitious attempting to move ahead in many directions. DIAND officials have not been involved in the development of the Workplans. In some cases, however, activities outlined in the Workplan were not carried out or the time lines set for completion of the work were not followed. For example, the Year II Workplan identifies seven Task Groups to be established covering work in thirteen areas (three were established) and nine major research reports pertaining to such diverse topics as justice, health, federal/provincial relations and international relations. Attempting to cover membership on all the Tables and complete such an ambitious research agenda with the limited staff resources at FAI seems at times to be unrealistic. Another issues raised by some respondents relates to the fact that the activities in the Workplans frequently do not contain specific performance indicators or monitoring procedures with which to measure achievement of the tasks. FAI recently completed a multi-year strategic management plan which has been submitted to DIAND.

Annual Funding of the FAI: Budgets estimating the costs of the activities have been included in the Workplans. In each year the budget the FAI has submitted to DIAND for funding has exceeded the amount that DIAND was prepared to fund. This has resulted in a situation in which a great deal of time has had to be spent negotiating an agreed upon budget for the year. Respondents in the Review reported that each year establishing a budget has been a frustrating process. Some important items have had to be cut from the budget each year. Two examples of items deleted from the Workplan included an Elders Council for FAI and a Training Program for Community Coordinators. By the time that the budget is agreed upon it is well into the fiscal year and activities are often adversely affected. There is also an inevitable disagreement between the parties as to an appropriate amount of funding required to sustain the FAI.

Need for Long-Term Funding: Many AMC respondents argued that in order to avoid the problem of the yearly negotiation of the FAI budget and with a view to putting the FAI on a more stable footing that long-term funding is required.

Submitting Deliverables: Many Respondents reported that completion of deliverables has been a source of contention for both parties. AMC/FAI claim that DIAND has placed an undue emphasis on producing results in the form of deliverables. This is despite the fact that the late negotiating of funding makes it difficult to complete work on time. On the other hand, some DIAND respondents pointed out that deliverables were often submitted late or are incomplete. For example, deliverables to be submitted in March, 1998 were presented in August and only a portion of the GOP was delivered.

FAI Staff are Spread Thin: The ambitious Workplans and lateness in submitting deliverables are, to some degree, a symptom of a problem of the volume of work being undertaken by a limited staff. The shift of a substantial portion of the budget from research to community consultations requiring the laying off of FAI staff compounded the problem. Many key pieces of work were contracted out to consultants. A number of Key Respondents pointed out that the FAI staff is spread too thin to effectively carry out the demands that are put on them.

Funding Shortfalls: Another source of difficulty has been the different perception as to what constitutes an adequate level of funding for the FAI. AMC Respondents claim that the FAI is underfunded in terms of what needs to be done to move the process forward in an expeditious manner. They point to the size and complexity of the task and the fact that important activities have had to be deleted from Annual Workplans because of a shortfall in funding. DIAND Respondents, in contrast, frequently contended that the FAI is adequately funded given what they perceive as the deficiency of results and lack of movement in the process.

Maintaining the Support of the Chiefs and Communities: An ongoing major challenge face by the FAI staff is ensuring that the Chiefs and First Nation communities are kept informed about the activities of the FAI and remain supportive. This is particularly challenging because of the significant turnover of Chiefs on FAI Committees and Working Groups. Frequently a new group of Chiefs have to be orientated to the process. For example, seven of the eight members of the FAI Executive Chiefs Committee have changed in the past year. In addition, the social and political context in Manitoba described earlier tends to compound the problem of maintaining informed support. That is, factors such as concern over day-to-day issues in First Nations communities, the notion that FAI funding could be better used to fund housing in communities, the perceived risk that moving to a new system of government represents, the high expectations of the FAI and the complex political climate combine to create a situation in which FAI staff must expend significant amounts of time maintaining the lines of communications through attending meetings and workshops and preparing briefing materials for Committees and Assemblies.

8.3 Relationship Between DIAND and AMC

The preceding analysis clearly indicates that there is a need to address some important issues facing the FAI if it is to move forward in an efficient and effective manner. Fundamental to addressing these issues is a restructuring of the relationship between DIAND and AMC/FAI. Interviews indicated that more than 80% of all Key Respondents believe that changes should be made to the relationship.

The interviews indicated that a priority of both parties is the resolution of four fundamental issues:

- the establishment of a true joint relationship between the parties at all levels;
- a renewal of the commitment by both parties to the FAI;
- the development of a common vision and set of goals for the FAI and an agreed upon set of roles and responsibilities for each party; and
- the establishment of an agreed upon "game plan" to move the FAI forward in an efficient and effective manner.

Establishing a True Joint Relationship: Virtually all of the Key Respondents agreed that there was a lack of effective Joint Relationship between the parties from what was envisioned in the original Agreement. Although the relationship has improved in recent months, it was characterized by most of those interviewed, as primarily adversarial with little trust or sharing. No joint tasks are being carried out except at the Working Tables. Both parties frequently blame each other for problems with the FAI.

On the other hand, Key Respondents on both sides indicated a desire to make changes in the relationship and to work together to further the work of FAI. They suggested that the parties have to be honest and open with each other at all levels and change their attitudes to develop trust and respect. A number of suggestions were made as to possible joint tasks that could be undertaken including: developing joint Workplans, research and information sessions in First Nations communities and the general public.

It was also recognized that some of the FAI work will, of necessity, be carried out separately by the parties, for example, the development of negotiation positions. In addition, AMC/FAI needs to consider the political issue of being perceived as working too closely with DIAND given the historic feelings of lack of trust of the government by some First Nations people.

Renewal of Commitment to the FAI: Respondents suggested that there needs to be a fusion of positive energy into the FAI by the parties, particularly at DIAND headquarters. The momentum appears to have been lost among some stakeholders. Respondents agreed that the FAI represents a tremendous opportunity that should not be lost. As one respondent put it "People need to become excited about FAI". For this to occur it was recommended that there needs to be a declaration of support and commitment to the FAI by both parties as part of a renewal process.

***Recommendation # 5: That the parties reaffirm their commitment to the FAI and agree to work toward the establishment of a true Joint Relationship through the development of an effective working relationship.**

Developing a Common Vision, Goals and Agreed Upon Roles and Responsibilities: A number of respondents declared that an important issue for the FAI is the lack of a common vision and set of agreed upon realistic goals among the stakeholders. They pointed out that it is difficult to work together to move forward if you are not clear on where it is you want to go. It appears that DIAND's primary goal is to create self-government agreements, whereas AMC's immediate goal is to build capacity in the communities to development "readiness" for the long-term goal of self-government. In fact, there is a consensus between the parties as to the overall vision of establishing viable self-government structures. The differences relate more to length of time it will take and the necessary steps required to reach the vision. On the one hand, FAI needs to be seen as producing results (however they are defined) while, on the other hand, there needs to be an understanding that bringing the communities on board with the process is a major goal which requires a substantial time frame. Once the stakeholders can come to a consensus on a broad vision and framework of goals then the specific roles and responsibilities of the parties can be established within that framework.

***Recommendation # 6: That, as a means to operationalize this renewal, a meeting of all senior officials responsible for the FAI be convened with a view to reframe the relationship, establish a shared vision of the FAI and determine the parameters of activities and resources of the FAI.**

Moving the FAI Forward: A follow-up to the above-mentioned issues is the need to develop a "game plan" of specific action that would need to occur to implement the broad changes agreed to. Assuming that a positive atmosphere can be created and a functioning working relationship can be established, the next step would be to institute a set of joint undertakings to move the FAI process forward. This might include such activities as: the production of a Joint Workplan, carrying out joint research projects, jointly sponsoring workshops or symposia on particular topics relating to self-government, conducting joint information sessions in First Nation communities or holding joint public events to inform the general public of the FAI.

It should be noted that the development of a joint game plan including a joint Workplan should entail a significant savings of expenditures for the FAI because the focus on "realistic" and "achievable" goals will mean some activities will, of necessity, be postponed to a future date. On the other hand, the implementation of other recommendations, for example, the acquisition of additional staff and an expanded community consultation process will entail additional funding.

***Recommendation # 7: As a parallel initiative and with the participation of senior managers, the appropriate officials at AMC and DIAND jointly develop a FAI Three-Year Workplan which will include: the setting of realistic goals for the FAI, a strategic plan to attain the goals, specific activities to be undertaken, achievable results to be expected, performance indicators of achievements of results, a reasonable time frame to complete the work, monitoring procedures and an appropriate budget. Another goal of the workshop should be to delineate the appropriate joint roles and responsibilities to be assumed by the parties under the renewed joint relationship model of the FAI. As part of this process DIAND Region and headquarters should be prepared to allocate additional staff resources to the FAI.**

A number of respondents suggested that some tangible activities should be undertaken to "put the renewed joint relationship into practice". Some believed that his could be achieved through the parties working together on common tasks. Some examples mentioned include: carrying out joint research projects on topics related to self-government and jointly sponsoring a conference or symposium on self-government.

It is clear that a great deal of research will be required to support activities of the FAI. The research capability was curtailed with the releasing of a number of research staff due to a shift of priorities within the FAI. The parties conducting joint research projects would have the dual benefit of providing important background information on self-government as well as providing a vehicle for the renewed joint relationship to develop.

Recommendation # 8: That a Joint FAI Research Committee be established composed of representatives of AMC/FAI and DIAND (and outside resources if appropriate) with a mandate to:

- **establish research priorities for the FAI;**
- **carry out joint research projects; and**
- **establish a Community-based Research Project process to initiate research on various topics of self-government in First Nation communities (including adjudicating Research Project Proposals and liaison with Community and Regional Coordinators) (See also Recommendation # 29).**

Some respondents reported that there was a need for "new ideas" regarding self-government to be infused into the FAI process. There are currently several First Nations self-government initiatives across Canada. There was a sense among respondents that, although Manitoba's situation is unique, there might be some lessons to be learned from these projects. The event could also be an opportunity for discussions to be held regarding important issues facing the FAI including: the integration of traditional First Nations culture into contemporary self-government structures and appropriate models of self-government.

Recommendation # 9: That AMC/FAI and DIAND jointly sponsor a symposia on First Nation self-government which will include Elders and speakers with expertise in self-government. Topics for workshops might include: ways and means of integrating traditional First Nations culture, language and traditions into models of self-government and lessons learned for other initiatives on self-government. The Symposia should be designed in such a way that a wide variety of individuals could attend including First Nation community members.

As stated previously, a major hindrance of the FAI has been the extended negotiation of funding that occurs annually regarding the Annual Workplans. It was reported that coming to an agreement between the parties as to an appropriate level of funding has been a time-consuming process which has adversely affected the work of the FAI. First Nation respondents suggested that the FAI needs to be put on a secure financial footing through the allocation of multi-year funding. At the same time, some DIAND respondents were reluctant to commit long-term funding unless they had a meaningful role in developing a mutually acceptable Workplan (see Recommendation #7) and that an appropriate joint relationship had been established.

***Recommendation # 10: That, assuming an effective joint process that is satisfactory to both parties has been put in place, a Three-Year funding base be allocated to the FAI to ensure that it is guaranteed a long-term financial stability.**

The research team is suggesting that a critical component of making the FAI successful in the future is the development of a joint relationship between the parties (as originally envisioned by the authors of the Agreement). A number of recommendations have been put forward to facilitate the renewal of the relationships. Given some of the difficulties in the relationship in the past, it appears appropriate that some mechanism be put in place to facilitate and monitor the progress in the direction of developing the relationship. Overcoming past attitudes of distrust and confrontation will not be easy. It is believed that an individual external to the FAI process could play a useful role in facilitating activities related to the relationship. Such an individual would need to take a "balanced" view of the process and have the respect and trust of both parties. They could assist in organizing joint activities and provide a sounding board for both parties, as well as monitoring progress toward the renewal of the joint relationship. The individual would report regularly to an appropriate joint body (e.g. JCOD).

Recommendation # 11: That, as a means of determining that an effective joint process has been established and that progress is being maintained, an individual outside of the FAI be engaged to review the situation. Representative from both parties would set the terms of reference for the position and the individual would report at regular intervals to the appropriate body.

9. MANAGEMENT AND ACCOUNTABILITY

9.1 Management and Accountability of DIAND

The lead responsibility for the FAI File rests with DIAND's Manitoba Regional Office with support provided by DIAND headquarters.

In the early stages of the FAI, the region maintained an office dedicated to FAI with a full-time Director. More recently the File has been integrated into the Intergovernmental Affairs Section. There is currently one full-time staff (Project Manager) and three part-time staff (Policy Analysists in DIAND and Lead Council from the Department of Justice) devoted to the FAI. As well, Senior Managers are involved in the FAI File and resources are brought in as required.

At DIAND headquarters, the FAI File was originally under the Corporate Services Branch. It is presently part of the Policy and Strategic Direction Branch. There are no full-time staff committed exclusively to FAI. Rather, staff are assigned to the File on an "as needed" basis. It was reported that the allocation of staff resources to the FAI varies significantly depending on the degree of activity occurring in the File. Respondents estimated that there is currently less than one full time equivalent (FTE) allocated to the FAI. It was indicated, however, by DIAND Key Informants that if staff resources were required they would be made available.

DIAND's accountability structures for the FAI are somewhat complex due to the fact that there are a number of groups and levels of accountability involved. At one level, DIAND is accountable to Parliament and the Federal Cabinet as well as other government departments including Treasury Board, Justice and the Privy Council Office. They are also responsible to the general public. At the same time DIAND has a fiduciary responsibility to the First Nations of Manitoba.

Within the FAI, DIAND participates at the three main committees which oversee the FAI, namely the Political Overview Committee, Joint Committee on the FAI and the three Working Tables. At another level of accountability there is little monitoring of activities or outputs of the FAI process by DIAND.

Three areas of concern were raised by Respondents with regard to the management and accountability structures of DIAND.

Mandate, Timing and Resources at DIAND Region: Concern was expressed by many AMC Key Respondents that DIAND's accountability structures are limited because Region does not have a sufficiently strong mandate and thus decisions on key issues take a long time to address. The Region, in many matters, is required to confer with senior officials at headquarters to move ahead. For example, in September 1997 AMC presented a paper entitled *Required Policy and Mandate Changes* which raised a number of issues which require clarification and resolution to move the negotiations forward. A response from DIAND came months later, in June 1998 suggesting the issues be discussed at the Joint Jurisdiction Table.

Support for the FAI at DIAND headquarters: A number of AMC and DIAND respondents indicated that they felt that there was not sufficient support for the FAI File at headquarters in terms of level of resources and expertise. Less than one FTE is not sufficient to support the file. They also suggested that there is a need for senior level officials to be more involved in the file to ensure a high profile at headquarters. In addition, they pointed out that considerable experience in dealing with First Nations self-government issues has resulted in a situation in which there exists a great deal of expertise at headquarters in such areas as research and negotiations.

***Recommendation # 12: That DIAND headquarters ensure that the FAI is a high priority by establishing an "FAI Secretariat" to oversee work on the file. The Committee should liaise closely with Regional office and should be composed of Senior Managers.**

Recommendation # 13: That, assuming that a satisfactory joint working relationship is established between the parties which results in a substantial increase in the level of activity of DIAND in the FAI, that DIAND second an individual from headquarters to work full-time on the FAI file (either in the FAI office or at Region office). The nature of the appointment, including specific duties and responsibilities should be negotiated among DIAND headquarters and Region.

Relationship between Region and headquarters: Many AMC and DIAND Respondents indicated that, in the past, headquarters did not provide sufficient support to the Region but that now the situation has improved. There was general agreement among DIAND Key Respondents that the Region was the appropriate place for the FAI to be located. Some AMC respondents, however, suggested that the FAI should be located at DIAND headquarters or even centred outside of DIAND in an Interdepartmental Committee. They argued that the expertise and authority for self-government tends to rest in headquarters and that Agreement was between the First Nations and the Government of Canada, not a specific department. On the other hand, it was recognized that Region has a better understanding of the provincial context including the First Nations political environment and local self-government needs.

There was, however, some general concern expressed about the nature of the relationship between Region and headquarters. This issue related to the lack of clarity regarding specific responsibilities for the FAI. There was endorsement of the fact that the lead for the FAI File should remain with Region but there was a need expressed that a reframing of the relationship should be undertaken to take advantage of the strengths and expertise of both groups.

***Recommendation # 14: That the Senior Managers of DIAND meet to clarify the division of responsibilities between Region and headquarters with the view to ensuring that sufficient support and expertise is available for the FAI by DIAND.**

9.2 Management and Accountability of AMC

The degree to which respondents reported their opinions as to whether the FAI was effectively managed varies greatly. Among AMC Key Respondents 64% said the FAI was effectively managed compared to 92% of DIAND Respondents who suggested it was not. Chiefs and Community Coordinators were quite positive in their assessment with 63% reporting the FAI was well managed. The latter group stated that the FAI was doing a good job despite a limited staff, staff turnover and frequent changes in directions. The Chiefs pointed to the FAI's good relationship with AMC, providing reports and information to communities in a timely fashion, supporting the Community Coordinators, and always being available to Chiefs and community members.

A number of individuals indicated that the staff were spread too thin to effectively carry out their work. This situation should be alleviated somewhat with the hiring of additional staff that is currently underway.

A major set of responsibilities for staff relates to the accountability structure in place at the FAI. Staff are required to keep the many groups informed about the FAI. This is a challenging and time-consuming task because the accountability structure is so complex. Indeed, many suggest that it can sometimes be too cumbersome to allow for decision-making because so many groups have to be consulted. As one AMC Key Respondent put it ". . . there's a lot of hoops to go through."

The organizational structure and accountability mechanisms involve several components. The FAI staff are accountable to DIAND and AMC. AMC/FAI is accountable to the AMC Chiefs Committee on FAI (6 Chiefs, which acts like a Board of Directors, meets monthly), the AMC Chiefs Executive Council of Chiefs (18 Chiefs - meets every two months) and the Chiefs Assembly (62 Chiefs - meets 2-3 times annually). There is also a Technical Advisory Committee which reports to the AMC Chiefs Committee and a Chiefs Committee for each of the expedited items. In addition, AMC/FAI is accountable to a number of groups with joint membership including: the Joint Committee on FAI, the Joint Project Management Committee and the Political Overview Committee. The FAI is also indirectly accountable to the Tribal Councils and First Nation communities. The FAI staff spend a great deal of time keeping these groups informed and up to date. Another problem is that there has been a great deal of turnover in membership on these committees so that staff are constantly bringing them up to date. With so many groups involved it is sometimes difficult to make a decision, although it was reported that the situation is improving as the AMC Chiefs Committee have been given additional authority to make decisions.

***Recommendation # 15: That the AMC/FAI take steps to "streamline" and "simplify" the accountability structures in the FAI.**

***Recommendation # 16: That the FAI examine the possibility of acquiring additional staff with qualifications in such areas as: policy analysis, community education and training, research and administration.**

Another accountability issue raised relates to the fact that the FAI is so closely linked to the AMC. The process becomes quite political as so many Chiefs, Tribal Councils and other political groups are involved with FAI. Some respondents suggested that a number of issues could be resolved by establishing a separate FAI office. Indeed, some Chiefs suggested that this was the original intent. A separate office with staff from both FAI and DIAND would contribute to the goal of working together in a partnership relationship. The office could be accountable to a Board of Directors of composed of a representative number of Chiefs. It could be responsible for carrying out a number of tasks including joint research, overseeing the community consultation process and a host of other activities. It could also help take the FAI out of the political arena. Others, however did not support the idea suggesting that such an independent structure would create more problems than ti would solve. They argued that the FAI needs to be closely linked to the political process to receive the support of the various First Nation groups that are influential in Manitoba.

10. THE NEGOTIATION PROCESS

One of the most problematic elements of the FAI process has been the negotiation process as evidenced by the fact that 87% of all Key Respondents when asked whether the negotiation process has been satisfactory answered "no."

The first Workplan identified three program areas that would be expedited or "fast tracked", namely Education, Fire and Emergency Services, and Capital. A fourth area, Child and Family Services was added later. Negotiations on Education were a continuation of a process that had been going since 1990 under the direction of a joint AMC DIAND committee. It was reported that the working relation between the parties was generally very good and that a great deal had been accomplished toward coming to an agreement over First Nations assuming control over their education system. The negotiations were based on an extensive community consultation process spanning four years. A number of community workshops were held that had designed to "bring the communities on board" with regard to an eventual Education agreement. Workshops initiated a community development approach beginning with creating awareness, outlining alternatives, developing an Action Plan leading to a model of a new education system. Respondents suggested that a wide variety of community groups including Elders and youth felt that they had been effectively included in the process.

Both parties appointed a Negotiation Team headed by a Chief Negotiator. DIAND selected a consultant supported by officials from DIAND and the Department of Justice. The Grand Chief, assisted by a legal team, acted as AMC's Chief Negotiator.

The FAI assumed control of negotiations in May 1996 with the hope of reaching an Interim Agreement within a year. During the negotiations AMC took the position that Education as a "sectoral" issue involving delegated authority was inexorably linked to broader "comprehensive" matters such as jurisdiction, inherent right to self-government, portability of rights, the Charter of Rights and Freedoms and treaty rights. In early 1997 a draft agreement, or "Treaty" was presented setting out AMC's position on a number of the comprehensive issues. These included constitutional protection of the Treaty including funding, recognition of the inherent right to self-government to the First Nations people, the Charter of Rights not applying to the exercising of jurisdiction by First Nation people, the Province of Manitoba not be a signatory to the Treaty, guaranteed standards of education, and portability of education rights and funding to all First Nation people regardless of residency through negotiated fiscal arrangements.

On the other side of the negotiating table, the Government of Canada took a series of positions quite contrary to those of AMC including: no recognition of a Treaty right to education, the Charter of Rights must apply, jurisdiction will be restored to First Nations communities only and that the Province of Manitoba must be a participant in negotiation in some fashion.

With the parties so far apart in their positions and the departure of the Grand Chief, negotiations broke down in March 1997. Negotiations on the other "fast tracked" items have not taken place.

At the same time, it was recognized that a "top down" approach to the development of self-government would not work. A grassroots strategy through community consultations was adopted to ensure that all First Nations peoples were fully informed of the FAI process.

Respondents suggested that there are a number of reasons why the negotiation process faltered.

The Need for a Mandate from the Community: Many respondents suggested that there was a recognition that First Nation community members were not "on board" with the substance of the negotiations and were concerned over the implications of negotiating a self-government agreement. Indeed, many Chiefs and Community Coordinators expressed the desire to be more informed and involved in the negotiation process. The factors discussed earlier, such as fear of the loss of treaty rights and concerns about change, led the Chiefs and AMC to institute the community consultation process to ensure that community members participated in the self-government process. There was a perception that it was premature to negotiate until there was a consensus in the community about fundamental issues. As one respondent said "...The negotiations must be community driven."

Adversarial Relationship: The adversarial relationship between the parties described earlier was viewed by many respondents as a hindrance to the negotiations.

Lack of Preparation for Negotiations: Several respondents claimed that neither side had done adequate research and preparation for the complex issues that needed to be negotiated. Negotiations proceeded on many fronts at once leading some respondents to suggest that the negotiation agenda was too ambitious. In addition, there was a sense among many respondents that neither party possessed a well-thought out negotiation strategy and that some players did not have extensive negotiation experience.

Rigidity of Positions: It was reported that both parties were quite fixed in their positions. There was little flexibility or willingness to compromise. It was suggested that DIAND negotiators would come to the table with a pro forma position on the issues based on government policies and would be unable to move very far from those positions. Similarly the AMC negotiators would be very cognizant of positions that Chiefs had taken on issues and did not have much room to negotiate. With the parties so far apart in their views of key items for negotiation, there was little likelihood that an agreement could be reached. One of the most contentious issues for AMC pertains to the application of DIAND's Inherent Rights Policy.

Negotiators Lacking an Authoritative Mandate: Another hindrance to the process was DIAND's Negotiating Team not having an authoritative mandate to negotiate on the issues. AMC and DIAND respondents claimed that DIAND Negotiators were often "handcuffed" by their limited ability to move on the items that were being negotiated. They had to go to headquarters for approval. There was a sense that senior officials from DIAND headquarters need to become actively involved in the negotiations for them to succeed. AMC negotiators likewise had to go to the Chiefs' Committee for approval of any change of position.

Lack of Negotiation Framework: Some respondents pointed to the structure of the negotiation process itself as a problem. They stated that the lack of a negotiation framework, in effect a set of agreed upon rules for negotiation, has hampered the process.

It was suggested that a "negotiation protocol" be established which would set out specific structures, processes, parameters, rules and time frames be struck between the parties as a basis for negotiations.

Respondents suggested that this set of obstacles combined to ensure that the negotiation process could not succeed in concluding any satisfactory agreements. Some respondents concluded that it is premature to negotiate at this time while these barriers continue to be in place. As one official put it "...Right now there's nothing to negotiate".

***Recommendation # 17: That formal negotiations be resumed when the parties agree that conditions are in place that will allow for some reasonable expectation of acceptable results can be achieved. Such as, changes in adversarial relationship, a mandate from the community, flexibility in negotiation positions of both parties, a clear and strong mandate for both parties and a clear negotiation framework.**

This is not to suggest that discussions should not begin immediately between the two parties on the implementation of the recommendations contained in this report. In fact this process should begin immediately. Each party should mandate a specific body to initiate discussions to address the recommendations.

Working toward addressing the obstacles that have stalled the formal negotiations will not be an easy task. To refocus formal negotiations on sectorial matters, such as education, can build on what has already been accomplished but will run the risk of being bogged down by the larger issues of Charter of Rights, portability of rights, Provincial involvement, inherent rights etc. On the other hand, beginning negotiations with these comprehensive issues will run into the dilemma of inflexibility of positions of the parties and will, therefore, have little chance of succeeding.

A new approach to negotiations is clearly required because it was generally recognized that the situation that is currently in place provides no basis with which to negotiate. It would appear that development of positions regarding a "middle road" set of issues might be a fruitful way of proceeding. Successful negotiations require that three elements be present: a willingness to negotiate, a desire to settle and a negotiation position. Respondents questioned whether the second and third elements are presently in place in the FAI. Respondents put forward a three-pronged approach that could result in a more effective negotiation process being put in place in the future.

First, an important aspect of this new approach should be the generation of negotiating positions from the communities through a revised community consultation process (see Section 11, Community Consultations). This strategy would have the advantages of "bringing the communities on board" with the FAI while at the same time grounding the negotiations in the reality of the expressed needs of First Nations community members. It could contribute to building a community consensus on self-government.

Second, this approach would also direct the research agenda for the FAI as discussion papers and background documents would need to be prepared on a host of issues that would emerge from the consultations.

Third, discussion at the three Working Tables could focus on addressing these issues using the GOP as a starting point. The parties will have to be vigilant not to use the Working Tables as a negotiating forum.

The substantiative issues that the consultations could focus on, build upon the work that is currently being done. It could focus initially on defining the nature of government and appropriate models. This would also have the advantage of utilizing the major result of the FAI this year, namely the GOP which specifically deals with these topics. If the consultations focus on issues to be negotiated, there will be more confidence that a "community position" will be forthcoming as a strong mandate for the negotiation team.

It is suggested that a long-term community consultation process might support the negotiations through examining the following issues:

- **Define the framework of "good government".** What do governments do? What are the principles and goals of governments? How can the values, beliefs and behaviour of traditional Aboriginal cultures be built into a definition of self-government? Much of this work has been accomplished through previous community consultation work. For example, reports exist on Elders views on traditional government structures and principles and goals of self-government.

- **Define and develop models of self-government:** Using the GOP as a discussion guide, examine and consider various models of governments that might fit with the circumstances of First Nations peoples in Manitoba. This addresses the question of the legitimacy of any future government structure. Work is underway to develop community constitutions that would support these questions.

- **Define the powers, scope and jurisdictions of government:** Questions such as, where will the authority of self-government lay? What levels of government would be appropriate? What would be the divisions of powers among the governments? What would be the nature of the jurisdictions of governments?

- **Develop fiscal relations framework:** How would the government structures be financed in order to ensure their sustainability?

- **Develop accountability structures:** What accountability structures would have to be in place to protect the rights of the people and assure adequate leadership?

- **Develop programs and services of the governments:** What programs and services will need to be instituted to fulfill the mandate of the government?

***Recommendation # 18: That a community consultation process be undertaken with a view to developing and refining negotiation positions for the FAI that is rooted in First Nations' perceptions of appropriate principles, structure and functions of self-governments.**

Recommendation # 19: That, as a vehicle of the community consultation process, a "FAI Self-government Task Force" be created. The Task Force should have representation from both parties and be Chaired by an individual external to the FAI. The mandate of the Task Force would be to hold hearings in the regions of Manitoba (corresponding with Tribal Counsel territories) to hear First Nations community members' views on self-governments in the form of individual or group presentations. A pre-hearing process should be put in place to help prepare community members to make presentations to the Task Force. Discussion questions and background documents should be prepared to help community members frame their presentations. Community and Regional Coordinators should take responsibility for preparing the people to make presentations and organizing the hearings in their regions. Special efforts should be made to ensure that the views of Elders, youth and women are heard at the presentations.

***Recommendation # 20: That the GOP continue to be utilized as an important resource in community consultations as well as Working Table discussions. In order for the GOP to be effective as a community consultation tool, the FAI take steps to modify it appropriately (e.g. distill the key ideas, put in simple language etc.).**

11. THE COMMUNITY CONSULTATION PROCESS

As stated previously, community consultations became a critical element of the FAI in Year II. At the present time close to half the FAI budget is expended on community consultations. The majority of activities are carried out by 61 Community Coordinators and 6 Regional Coordinators hired by First Nations communities and Tribal Councils through a contract with the FAI. In most cases each First Nation receives $50,000 and each Tribal Council $60,000 to support community consultations.

There is recognition that people in First Nation communities must be knowledgeable and involved in the FAI if they are to make informed decisions about self-government. Overcoming the fears associated with change requires a significant effort. The goal is to build a consensus in the community regarding structures of self-government with a view to ratification in the long-term. It is viewed as a long-term community development initiative involving a healing process to assist people overcome the fear, mistrust and dependency that currently exist.

The responsibilities of the Community Coordinators include: producing informational material, facilitating community workshops/information sessions, conducting research in the community, liaison with Chief and Council, Tribal Councils and AMC, bring speakers into the community and assisting in developing community constitutions.

The community consultation process is viewed by respondents as the most important component of the FAI. Virtually one hundred percent of the Key Respondents, Chiefs and Community Coordinators, Focus Group participants and community members in the four Case Study communities stated that it should form a major role in the FAI. Chiefs and Community Coordinators were quite positive in evaluating the process. When asked how they would assess the community consultation process 51% said that it was "excellent" or "good" and 29% reporting that it was "fair". A comment from a Chief was typical when he said " . . . A lot more people in the community are talking about self-government."

First Nations Community members interviewed during the Case Studies provide a useful perspective on the effectiveness of the community consultations as it is this group at whom the effort is primarily directed. The interview findings were combined for the four communities. The results were quite mixed which some interesting patterns emerging from the findings. When asked to assess the community consultation process 30% responded that it was "excellent" or "good," 24% "fair" and 45% "poor". They suggested that, overall, the communities are not participating effectively in the FAI. More than 55% said the community was not participating, 21% responded affirmatively and 24% provided a qualified response.

Asked to elaborate on their answers, some community members tended not to participate because they were busy with other immediate concerns in their lives. Others stated that they were concerned that self-government would lead to the loss of treaty rights and services (such as health) in their communities. Still others feared the results of the devolution of DIAND.

On a more positive note, 60% reported that the FAI had benefited their community. In addition, close to 60% of those interviewed in the Case Studies had attended an FAI information session in their community. Overall, there was a desire to participate in the FAI. Individuals made a number of suggestions for improving the FAI process as it affects their communities including: FAI provide more information to community members, that information is provided in "laymen's language" as well as in an Aboriginal language, community leaders become more visibly involved in community consultations, Treaty rights are protected, those groups not currently involved such as women and youth be given a greater role in the FAI, greater transparency and accountability by AMC and the First Nation, additional workshops on self-government and community committees are established to allow community members to become more involved in the FAI.

Overall, it is fair to conclude that one of the most important results of the FAI has been the raising of awareness of self-government issues in First Nation communities.

A number of issues affecting the community consultations were raised during the Review.

Refocusing community consultations toward "capacity building" and specific results: The community consultations have evolved over the past two years. Initially the process focussed on developing awareness of the FAI and providing information to the FAI on a variety of topics. Thus, Community Coordinators conducted research on Elders' views on past and present structures of self-government, conducted interviews and workshops to glean community members' views on the principles and goals of self-government and so on. More recently, the emphasis has shifted to acquiring more specific information on community perceptions of self-government through the development of community constitutions. Community Coordinators are expected to consult community members on the elements of a constitution including: citizenship, rights such as equality, powers, leadership and government structures. The community consultation process has also expanded to include Community Support Working Groups in selected communities. These groups receive a small amount of funding from the FAI ($12,000 to $18,000) to do work in specialized area pertaining to self-government in which they have expertise. It is a competitive process in which community groups prepare proposals. In addition, there are Community Groups with a broad representation in some First Nations Communities that carry out such activities as conducting workshops on specific topics pertaining to self-government.

Refocusing the community consultation process toward specific tasks requires the involvement of a greater number of people, hence the need for significant "capacity building" in First Nation Communities as part of the community development process. Capacity building can be defined as a multi-dimensional process involving the development of sustainable community institutions, social structures, programs and processes. The overall goal of capacity building is to assist people in a community to decide for themselves the type of social order that they want through a process of providing opportunities and decision-making authority in determining their own future. Capacity building involves a number of factors including: training, human resource development, infrastructure development, institution strengthening, community mobilization and improvements in management and leadership (Building Effective partnerships, Moses Kiggundu, DIAND, 1998). A number of conditions need to be in place for effective capacity building to occur including: visionary leadership; a strong mandate; political will; financial, human and institutional resources; legal, a culturally and politically enabling environment; and community ownership, participation and commitment. Finally, indicators of capacity development include: joint decision making, problem-solving and conflict management; organizational strengthening; new programs; new skills and knowledge; strong effective leadership; competent and motivated members; more effective partnerships; better service delivery; and economic, social and political indicators. Many respondents suggested that the community consultation process be refocused toward capacity building in First Nation communities as a prerequisite to self-government.

It should be noted that additional costs associated with a refocused community consultation process should be offset by the reduction of activities resulting from a scaled-down Workplan negotiated between the parties.

Many of the following recommendations are designed to support, build upon and expand on community consultations activities already underway at the FAI. Respondents reported that a great deal of progress has been made in informing community members about self-government through the FAI's community consultations. Many First Nation respondents indicated that they wish to see the FAI community consultation efforts expanded. Also, community members frequently expressed the desire to become more involved in self-government discussions and projects.

***Recommendation # 21: That the community consultation process be refocused toward the short-term goal of developing appropriate models of self-government with a view to generating a community-based negotiation position (see Recommendation #18), as well as "capacity building" as a longer-term strategy preparing First Nations people for self-government. A "Community Consultation Action Plan" should be jointly developed by the Partners to implement the task. The Plan should include specific objectives, activities, accountability structures, monitoring systems, time lines and outcomes.**

Community consultation staff requirements: Even under the most ideal conditions overseeing the work of a field staff of 68 is an onerous task requiring a substantial staff. Respondents suggested that there is currently insufficient staff at the FAI to undertake those responsibilities. Community Coordinators expressed the need to be more adequately supported in their work. They reported often feeling isolated in their communities without strong and active support for the FAI office. The primary reason for this situation is the lack of staff resources devoted to the community consultation process.

***Recommendation # 22: That, as part of the refocusing of community consultations, the FAI acquire additional staff resources with specific responsibilities for community consultations. These staff members should possess skills in community development/adult education, including: competence in such areas as adult curriculum development; workshop design and facilitation, and organizational development. Duties and responsibilities for the position should include developing an accountability structure to more effectively support the work of Community Coordinators.**

Accountability of the Community Coordinators: Community Coordinators hold a position in which, in effect, they have a dual accountability system - both to the Chief in their community and to the Consultation Coordinator in the FAI office. Some respondents reported that this situation leads to confusion and inefficiency. Reports from Community Coordinators are sometimes submitted to one of the individuals or the other leading to incomplete information being available at the FAI office. Many respondents suggested that the FAI should have primary responsibility for Community Coordinators to ensure consistency and efficiency.

***Recommendation # 23: That the accountability of the Community Coordinators be clarified with a view to ensuring the maintenance of an adequate reporting mechanism involving the FAI office.**

Training for Community Coordinators: Respondents from all the stakeholders groups suggested that there was a need for Community Coordinators to acquire additional training to effectively carry out their responsibilities. This will be especially the case under a refocused community consultation process. Specialized skills such as designing and facilitating community workshops, developing and supporting community organisations, preparing reports on a wide range of specialized topics etc. will be required under the new situation.

***Recommendation # 24: That a training package be prepared to upgrade the skills of Community Coordinators to meet the requirements of the community consultation process. A series of training workshops focussing on specific skill sets should be instituted to train Community Coordinators.**

Variations in "states of readiness" of First Nation communities: Respondents recognized that there is a tremendous diversity among First Nation communities in terms of their "state of readiness" for self-government. Differences exist with regard to political efficacy, social vitality and economic viability. It was reported that some "progressive" communities are frustrated at the lack of progress on self-government. They feel ready to move on a number of fronts but feel "held back" by an approach which does not recognize variation among communities. As one respondent put it "...It's like FAI caters to the lowest common denominator in its approach to communities."

Recommendation # 25: That the FAI institute an informal "community needs assessment" process with a view to determining different "states of readiness" of First Nation communities. Different community consultation strategies should then be developed to meet divergent communities' self-government needs.

After the community needs assessments is completed, the various "states of readiness" for self-government of First Nations can be determined. Respondents reported that it will be important for some follow up activities to occur to allow some communities to move forward with self-government initiatives. Some respondents suggested that the FAI could initiate a number of "pilot projects" in First Nation communities. For example, self-government Community Committees could be established in some communities (see Recommendation #27). The groups could be given a small amount of funding to carry out such tasks as: conducting research on self-government topics, develop community self-government constitutions or work with the Community Coordinator to sponsor workshops or community information sessions. Different initiatives will be appropriate for different communities.

It should be noted that these recommendations build on work that has already been carried out by FAI staff. The recommendations are meant to support and expand on this work.

***Recommendation # 26: That, in recognition of the divergent needs of First Nation communities, a limited number of "pilot projects" be established by the FAI to encourage communities to participate in self-government initiatives.**

Facilitating the involvement of communities in the FAI: An essential part of community capacity building is the involvement of community members in various activities pertaining to self-government. Community members need to develop a sense of "ownership" of the process to motivate and sustain their participation in community consultations. The development of self-government institutions requires an informed community capable of collaborating in the building of those institutions. For this to occur, a structure and process is essential, usually in the form of a community organization mandated to facilitate discussions, mobilize resources and create structures. In the process organizational and technical skills are developed.

The FAI has established Community Committees in some First Nation communities. Recommendations in this section are designed to complement and build on these initiatives.

***Recommendation # 27: That First Nation communities be encouraged to establish "Self-government Community Committees" to work with Community Coordinators and FAI staff to develop and oversee self-government initiatives in their communities. These Committees should be eligible for modest funding from the FAI to carry out their activities.**

Instituting Community-based Research Projects: Capacity building is facilitated through the acquisition of particular skills by community members. A particularly important skill in developing structures of self-government is "community-based "or "participatory" research. It involves community members being active participants in all stages of the research from deciding the issue to be researched, to planning and conducting the research (often with the assistance of an outside researcher). In the process the research approach is "demystified" and a variety of skills (e.g. planning, interviewing, data analysing, report writing etc.) are transferred to community members.

A number of First Nation community members indicated that they would like to become more involved in the FAI process. The Maang research team concluded that the two related tasks of the FAI could come together, namely, community involvement and the need for research on self-government. It was suggested that community-based research projects could be the vehicle to meet both needs. These projects could be part of the mandate of the Self-government Community Committees working with the Community Coordinators. In order for the community members to effectively participate in the research project, it would be appropriate for workshops to be held to train individuals in research skills. The research would also assist in developing a community-based negotiation position in that topics to be researched (e.g. appropriate models of self-government) could focus on issues relevant to the negotiation position. This initiative builds on work already being undertaken by the FAI.

Recommendation # 28: That the FAI sponsor a series of "Community-based Research Workshops" in selected First Nation communities (or Tribal Council regions) to teach community-based research approaches to provide Community Coordinators and community members the skills to conduct research in their communities.

A number of First Nation respondents indicated that they wish to become more involved in discussions and projects pertaining to the development of self-government in their communities. This was evident in both the First Nation case studies and interviews in the communities.

Recommendation # 29: That, as a follow-up to the research workshops', a selected number of community-based (or regionally-based) research projects be undertaken by FAI pertaining to specific aspects of self-government. These projects could be overseen by a Joint FAI Research Committee (see: Recommendation # 8) and coordinated by Community (or Regional) Coordinators and Self-government Community Committees (see Recommendation #27). Community members (e.g., those who have participated in the Research Workshops or university students) should be involved in the research.

A "Community Research Project Steering Committee" should be established in each community to oversee the projects. Research proposals should be submitted to the Joint FAI Research Committee through a competitive process. The FAI should provide funding for the projects. If required, a consultant could be contracted to assist with establishing the process and provide assistance to Community Coordinators and community members in conducting the research.

12. SOME STRATEGIC AND PROCESS OBSERVATIONS ON COST-EFFECTIVENESS OF THE FAI

12.1 Objectives

The following analysis is focused on cost-effectiveness of the FAI. This analysis was undertaken to: (a) determine, with the available data, if the objectives of the parties (Canada, and the AMC) were achieved in a cost-effective manner; and (b) to determine strategic lessons for future stages of the FAI.

12.2 Method

The analysis used data available from the current review of the FAI (community consultations, key informant interviews and file reviews). These data provided perspective on costs, process and results to date. Additionally, the reviewer examined deliverables, budgets, reports on expenditures, including DIAND estimates of staff time utilization, audits, etc. We also interviewed staff from both DIAND and FAI. Other aspects were: specific analyses of costs of FAI relative to broader Federal expenditures on First Nations, and comparison of FAI to the broader range of expenditures on self-government The analysis focused on the third year of the initiative, 1997-98, on grounds that better data would be available. Some limitations were: gaps in available data; limited accounting systems; etc. *Because of limited data (from both DIAND and FAI), many of the key conclusions about cost-effectiveness focus on how to think about cost-effectiveness for better management and recording of the FAI in the future.*

12.3 Differences in How the Parties View Goals

The information collected in the review suggests significant differences of opinion between Government and First Nations, as to what cost-effectiveness is, its importance, and how it should be assessed. To DIAND, like other government agencies, it is a prominent consideration in assessing the value of any program. To First Nations, a cost-effective analysis may seem an irrelevant criterion -- a way of putting a price on what to many First Nations people is a priceless goal which cannot be measured in monetary terms, or a culturally foreign way of assessing the way in which First Nations take command of their future.

As well, the two parties seem to differ greatly as to what is important among FAI goals. DIAND, in the reviewer's assessment, focuses its criteria on identifiable products -- agreements, deliverable reports and so on. FAI has, in the reviewer's assessment, focused its criteria more on capacity building (institutions, human resources, etc.). Both of these views are valid, and accordingly, this discussion of cost-effectiveness argues that there is a need for clear acceptance of both features to ensure long-term success which is mutually satisfactory to the two parties. Both views merit respect if the initiative is to be successful. Thus it could be desirable for DIAND to focus more on capacity building. By this we mean the creation of the infrastructure, the human resources, and the understanding and popular acceptance of self-government.

Second, changes could also be highly desirable for the FAI side -- essentially to focus more on measuring and being accountable for capacity building results. As the initiative has unfolded, many positive impacts on capacity appear to have occurred -- in the creation of the infrastructure to support self-government (FAI itself as a provincial coordinating structure, and through infusion of expertise into Tribal Councils etc.), in the human resources for self-government (in the above, and also in human resource development efforts such as the First Nations Government Representatives Program).

12.4 Observations and Conclusions

12.4.1 How much was spent?

Overall costs for FAI is $21,588,343 for AMC and for DIAND Region $1,225,061 to 1997-1998 for a total of $22,813,404 as shown in Table 1 on page 20 of this report.

12.4.2 Was the Overall Level of Expenditure Prudent?

To consider this question, we examined: FAI expenditures in relation to broader expenditures, and FAI expenditures in comparison to self-government expenditures generally.

When FAI expenditures are considered in context of broader DIAND and related federal expenditures on First Nations, *it can be seen that FAI expenditures represent a very small part of those total expenditures.* In total, $21-plus million was spent on FAI to 1997-1998, relative to about $850 million in overall annual Federal expenditures for First Nations and their people in Manitoba. In this perspective, FAI was seen by the reviewer as a reasonable resource allocation dedicated to leveraging major social change and future steering of an extremely large and costly portfolio of governmental and social services for First Nations in Manitoba. The FAI was also seen as having tremendous potential for long-term savings, and further value in terms of possible lessons nationally.

A comparison of FAI with more than 60 other comprehensive self-government initiatives across Canada (see Appendix 6 for a list of these agreements) also suggested that the *costs of the FAI were comparable to other initiatives up to 1997-1998.* Detailed comparisons are difficult, as all such initiatives are unique, but an overall assessment suggests that FAI costs were comparable to other self-government initiatives, up to 1997-1998. For example, in fiscal 1997-1998, FAI was 8th in per First Nation costs among 56 self-government initiatives examined (a medium-high cost), and 26th in per capita costs among 59 self-government initiatives examined (a relatively average cost).

It should be emphasized that these results are not an indication of cost-effectiveness per-se, which must be determined by a different type of test -- one which better measures specific results for specific expenditures. However, these data suggest that the FAI effort, while relatively costly on a per First Nation basis up to 1997-1998, was moderate in cost on a per-capita basis. Thus, the FAI appeared to be comparable to the broad range of expenditures found for self-government initiatives as broadly implemented across Canada (as of 1997-1998). [Note, however that, the rate of increase in FAI budgets may modify the ranking of the FAI compared to other self-government initiatives when data become available for 1998-1999.]

12.4.3 What Was the Money Spent On?

Consistent with the overall strategy of the FAI, the largest portion of the funding ($4.2 million, or 47% in 1997-1998) was spent on community consultations. Consultations were developed by Community Coordinators in each of Manitoba's 62 First Nations. The second greatest expenditure of FAI was for overall project management, the FAI infrastructure ($1.7 million, or $19% in 1997-1998). Research was the third greatest expenditure, particularly for the (GOP) ($968,000 or 9% of the total FAI budget in 1997-1998).

Additional major expenditures were for the First Nations Representatives Program, an internship program for 10 First Nations civil servant trainees ($894,000 or about 9.7% in 1997-1998); and "fast track negotiations" in: *Education* ($439,775 or about 4.8% in 1997-1998); *Child and Family Services* ($366,164 and $442,540 respectively or about 9% in 1997-1998)f, and *fire and capital expenditures.* No significant expenditures were made on fire and capital in 1997-1998. This was reflected in major changes in the Workplan for 1997-98, with negotiations canceled -- a disappointment (the reviewer assessed from interviews) for DIAND and others active in education particularly, where negotiations were most advanced.

12.4.4 Key Uses of Funds

Generally, an examination of audits, and evidence of results in communities indicates that the community consultation money was spent on what it was supposed to be spent on -- consultation and capacity building in communities across Manitoba. This was evidenced by a significant consultation effort which was found in all communities the reviewers studied, and by a sampling of audit reports suggesting that the majority of Band level funding was directed to consultation (little was reported directed to overhead, or other uses, and no detailed evidence was reported to the reviewer by the DIAND Region office of First Nations using use of funds for other purposes, such as debt reduction). As a result of consultation, the review studies indicated that people are talking more about and more informed about self-government -- a key and essential goal of the FAI.

Tempering Our Assessment: *While valuable capacity impacts are evident in communities in the data we have seen, a stronger effort could be promoted, to the advantage of cost-effectiveness.* This could be done, for example, by directing a larger portion of FAI resources to the education/consultation infrastructure (training, resources, etc.). Such a strong focus on community education and consultation is indicated by our main review results which also suggest that in spite of progress, the majority of Manitoba's First Nation population remain unaware of or afraid of self-government as of 1998.

As well, the FAI itself (administration/operations)can be seen as a capacity building effort. The FAI office has given many First Nations professionals new opportunities to function in a governmental context. This experience aids in training a cadre of future participants in First Nations governments. Additionally, the work of First Nations leaders in directing the FAI develops other self-government skills. Expansion of programs in this area, such as the First Nations Government Representatives Program, could be an important element of the FAI, because of potentially important impacts on the development of the human resources needed for self-government.

12.4.5 Some Difficult-to-Assess Results

Research: The value of the research for the GOP, cannot be assessed at this time, since this report has not been used. This is important because of the substantial cost of the GOP.

Recommendation #30: Use of the GOP should be undertaken within a well-defined evaluation process, to assess its value and the cost-effectiveness of the investment in this tool.

"Fast Track" Negotiations: As noted earlier, certain funds expended did not result in outcomes expected by DIAND, because of shifting ground allowed for the study plan). Significant resources for those activities were not applied to negotiations per se, but related work continued in consultation, capacity building and research, although the broader logic of their relation to FAI may not have been completely clear. In the future, clarifying the way in which such "redirected" funds are used for FAI goals will be useful to the measurement of cost effectiveness.

12.4.6 Having the Parties Focus on Results

Assessments of results of FAI by DIAND and FAI are mixed, depending upon the criteria the parties apply. Generally, the reviewers found the parties to differ in their assessment of cost effectiveness, with DIAND personnel we interviewed generally regarding FAI as not cost-effective, and FAI personnel generally regarding FAI as having been cost effective. These differences clearly reflect the different criteria applied by the parties. Useful capacity building centrally and in communities resulted, and a variety of research materials were produced, but some key objectives of concern to DIAND were side-tracked. This points to the need for more direct and meaningful treatment of results by all of the parties, if results of the FAI are to be assessed in a meaningful and balanced manner, and if reporting is to be enhanced in the future.

Recommendation #31: The FAI should consider giving greater emphasis to directly measuring the things that are important to it -- directly assessing the capacity building that is central part of the nation-building element of FAI.

This would include, for example, the results of FAI in developing infrastructure (the FAI organization itself, and its personnel), impacts on human resources and so on. Impacts in community understanding and reduction of fears could be measured directly. For example, an annual (or every other year) survey of the First Nation population could be conducted in the summer, providing youth employment, and a direct measure of popular attitudes towards self-government.

***Recommendation #32: DIAND should consider placing less emphasis on agreements and deliverables per se, focusing more of its attention on capacity-related results, while still pursuing other results it may place priority on (e.g. specific agreements).**

Over the FAI years, many documents have been produced, such as the extensive deliverables provided for the 1997-1998 fiscal year, but the value of documents may be uncertain, and even agreements may be misleading indicators of progress, if the fundamental capacity for self-government is not grown by the process.

It is no surprise that, as we noted at the start of this review, the parties to the agreement have very different assessments as to whether the results were cost-effective relative to their goals for the FAI. (As noted earlier, DIAND interviewees generally assessed the results as not cost-effective, while FAI interviewees generally assessed the results as cost-effective). This difference in perspective was exacerbated by the lack of agreed upon indicators for success, and the lack of new indicators of success being negotiated to correspond to changes in the Workplan (such as the sidetracking of negotiations on education).

The conclusion drawn by the reviewer therefore has two aspects: Some elements of FAI such as the community consultations show good logic relative to the goals of nation-building, and good results. These elements could therefore be deemed, in a preliminary way, to provide reasonable value for money spent. At the same time some elements (such as the GOP) cannot be assessed as to cost-effectiveness at all).

12.4.7 What Was Most Valuable?

The information we have at this time suggests that the community consultation effort may have been the most important part of the FAI. At the same time, as noted below, this is the component most in need of further development and expansion.

Additionally, the data available led the reviewer to conclude that overall administration of FAI was reasonable and thus of value, and that the First Nations Government Representatives Program was a valuable initiative and one potentially worth expanding. Significantly, virtually all of these FAI activities involved certain capacity building effects, which remain valuable but unmeasured in any exact way. The efforts in education, and child and family services (about 15% of the overall budget) cannot be so clearly assessed, so an assessment of cost-effectiveness of this activity is not possible at this time.

12.5 Future Directions

12.5.1 There is a Need to ensure Accountability and Measure FAI Results in a Multi-Year Time Frame

Ideally, future assessments would be placed within a multi-year planning framework, to allow for, as has already been proposed by FAI in its recently submitted multi-year Workplan, incremental assessment of progress, and the value of each program component. Such a framework will allow improved reporting and planning of these complex efforts.

***Recommendation #33: Build results measurement into a multi-year budgeting and performance measuring process including detailed indicators.**

12.5.2 There is a Need for Clearly Agreed Upon Goals and Indicators

This requires the parties to develop a detailed understanding of objectives and indicators. Ideally, this would be based on a common set of premises about what cost-effectiveness means -- in a philosophical framework which makes sense both to the federal government and First Nations.

***Recommendation #34: There is a need for the parties to define various cost-effectiveness indicators and monitoring procedures for the subsequent years of the agreement more effectively, and to describe better how these criteria will be applied to specific activities.**

12.5.3 There is a Need for Ongoing and Systematic Measurement of Actual Results

This requires specific data collection activities, and possibly new types of reporting (for example, tracking attitudes in communities, and reporting on staff time, for both FAI and DIAND). Such an approach could allow for the emergence of a true cost-effectiveness analysis which would aid DIAND as regards its reporting concerns, and aid FAI in its own management and reporting to the AMC.

Recommendation #35: To support ongoing assessments of cost-effectiveness, it would be desirable to develop mechanisms for providing regular and reliable information on such impacts as community understanding of self-government, First Nations' population fear or acceptance of self-government, etc. Human resource and infrastructure impacts should also be monitored in a systematic way.

12.5.4 Budget Levels and Concepts of Cost-Effectiveness

A final question of interest in looking at costs and results surrounds the budget level of FAI. This is an important issue, as expenditures have continued to increase as the FAI has progressed. Some would ask the question, "were the moneys spent on FAI prudent?" Others might also ask: "Was the FAI undertaken at a sufficient level of effort?"

Clearly, the right amount of money to spend on self-government is the amount that will get the job done in a prudent manner. There is at this time no known magic "cut off", and spending fewer resources than needed to do the job right will be as cost-ineffective as spending the money poorly. (That is, funding self-government initiatives at an insufficient level, may simply not be worth doing at all, if we cannot afford to do it right.)

This means that the parties are challenged to draw on what they have learned to determine in an increasingly accurate way, what resources are required to get the job done, in a time of scarce resources. This determination could be aided by a progressive annual review of rate of progress in building capacity as discussed above -- key marker variables being growth in self-government capacity and popular awareness and endorsement of self-government measured, for example, through periodic population surveys to assess change in level of understanding, fears, etc.).

12.5.5 Can Cost-Effectiveness be Viewed in a more Culturally Relevant Way?

Initially, we noted that cost-effectiveness may seem a secondary criterion to First Nations -- a government way of assessing what to many First Nation's people may seem a priceless entity, or a culturally biased or culturally foreign way of assessing the way in which First Nations take command of their future. A more harmonious approach -- with more First Nation "buy-in" could be developed as a basis for future treatment of cost-effectiveness. A first step could be to explore what the alternative meanings of cost-effectiveness might be to the parties. Developing a solid conceptual and philosophical base could aid the credibility of any future cost-effectiveness analysis and its implementation both for First Nation's communities and for DIAND.

13. CONCLUSION: LESSONS LEARNED AND FUTURE DIRECTIONS

"It's difficult to attain a balance between progressively moving forward while maintaining the security of the past" (Key Respondent)

The FAI is perhaps the most ambitious and difficult First Nations self-government initiative in Canada. It also operates in a tremendously complex social, political and economic environment. The challenge of achieving the objectives of establishing jurisdiction and restoring First Nations governments in 62 communities in Manitoba appears to have been underestimated by the authors of the FAI Agreement. At the same time, they acknowledged the difficulty of the task by recognizing that it is a long-term process that requires that certain elements be in place for it to work. In their vision of the FAI the authors included two principles that they understood were fundamental to the success of the endeavour. First, that it was imperative that the First Nations' leadership and membership understand and participate actively in the process. Second, that both parties join in a renewed relationship to work together toward achieving the objectives. The attainments of these two principles continue to be the most challenging tasks facing the FAI today.

This Review has attempted to uncover the many facets of this complex process. Using a multiple line of evidence approach the study team has interviewed 192 individuals, travelled to 41 First Nation communities and reviewed mounds of documents in order to effectively represent the perspective of the various stakeholders. This report has endeavoured to present a fair and balanced picture of the FAI in all its complexity. In this regard, it is imperative to understand the FAI within the context within it operates and view it as a long-term process. It is still early in the process. In its first three years the FAI has struggled with a number of issues that have affected its ability to carry out its mandate as described in the report. At the same time, much has been accomplished in terms of creating awareness in communities, coming to a greater understanding of the self-government process and producing important documents such as the GOP.

Respondents returned over and over again to the two central themes which challenge the FAI: firstly, attempting to overcome 150 years of negative history in First Nations communities to move toward self-government, and secondly, trying to develop a joint relationship between the parties based on mutual trust and respect. Until these issues are satisfactorily addressed, it will be difficult for FAI to move on to achieve its objectives.

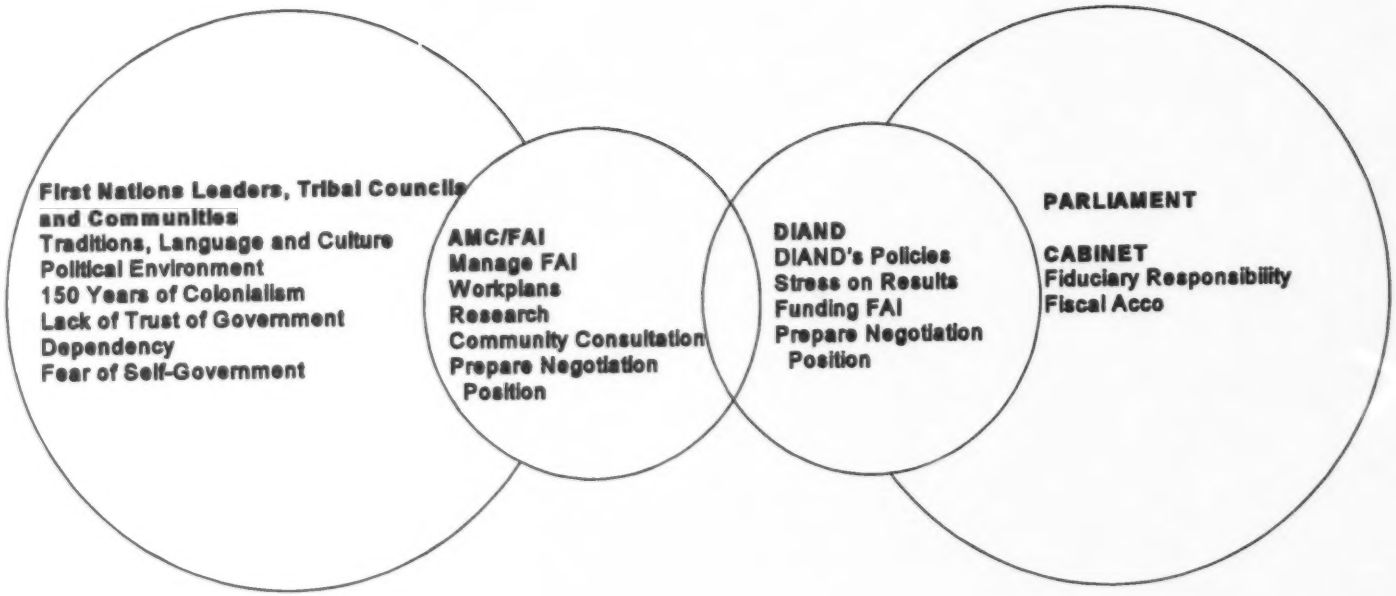
The Review has characterized the relationship between the two parties as "Two Dichotomies" in that a joint relationship has not developed and lines of communication are, at time, strained. In addition, no common vision or shared sense of direction for the FAI is currently in place. Although the situation has recently improved, there remains the challenge of developing a "renewed relationship." Figure 1 illustrates the current situation in the FAI. Both of the parties have their mandates and entities to which they are responsible. For the AMC/FAI it is the First Nations community characterized by distinctive cultural values, language and traditions, a pervasive political climate, history of colonialism, lack of trust of government and fear of self-government. DIAND's world is delineated by a government and bureaucracy also possessing a distinctive culture and political climate. The environments of both parties provide opportunities and restrictions but each must be accepted and the implications for the FAI to be understood. Neither side can operate outside of its environment.

Despite the challenges, the Review has discovered that both parties are fundamentally committed to make the FAI work. Based on the lessons learned and future directions as expressed by the respondents the report has made a number of recommendations designed to move the FAI process forward. Figure 2 depicts the situation of a renewed structure of FAI based on a renewed relationship. Stakeholders recognize that it will be through carrying out a number of joint activities that the relationship can be activated and the parties can operationalize their commitment to the process.

The analysis and recommendations represent a step by step approach to renewing the FAI. It is a kind of "blueprint" of related structures and activities that can be undertaken. It can be summarized by the following;

- renew the relationship to ensure that both parties have a sense of "ownership" and commitment to the FAI through meaningful involvement at all levels;
- develop a common vision and agreed upon set of goals for the FAI that are attainable;
- clarify the roles and responsibilities of both parties in the FAI;
- establish an agreed upon realistic and coherent "game plan" to implement the vision and goals including a "refocused" community consultation process as a priority;
- engage in a number of joint activities to develop the relationship and move the process forward;
- put the appropriate resources, human and financial, in place to allow the work to occur; and
- establish an agreed upon monitoring and accountability framework to measure that the goals are being met.

In this way it is hoped that the next three years of the FAI will result in significant movement toward self-government for the First Nations of Manitoba.


First Nations Leaders, Tribal Councils and Communities
Traditions, Language and Culture
Political Environment
150 Years of Colonialism
Lack of Trust of Government
Dependency
Fear of Self-Government
AMC/FAI
Manage FAI
Workplans
Research
Community Consultation
Prepare Negotiation Position
DIAND
DIAND's Policies
Stress on Results
Funding FAI
Prepare Negotiation Position
PARLIAMENT
CABINET
Fiduciary Responsibility
Fiscal Acco